

NORTH SLOPE BOROUGH PERSONNEL RULES AND REGULATIONS
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CHAPTER 1.01 - GENERAL PROVISIONS

§1.01.1 SCOPE. The scope of the North Slope Borough Personnel Rules is mandated by NSBMC §2.20.150. Subsequent amendments and revisions as proposed by the Director of Human Resources, approved by the Mayor and reviewed by the Assembly are authorized by §2.20.140.

§1.01.2 EFFECTIVE DATE. The effective date of any revision or amendment to these rules shall be the date on which the Mayor approves and executes the PRR change or unless otherwise expressly provided. The Assembly shall be notified of the change at their next regular meeting.

§1.01.3 RULES SUPERSEDED BY BOROUGH ORDINANCES. In the event the Borough Assembly passes an ordinance which materially modifies the intent or effect of any provision in these rules, the ordinance shall supersede the affected rule upon its adoption and govern thereafter.

§1.01.4 SEVERABILITY. If any provision of these rules or any application thereof to any person or circumstance is held to be invalid, the remainder of these rules and the application to other persons or circumstances shall not be affected thereby.

CHAPTER 1.02 - APPLICABILITY

§1.02.1 APPLICATION. Chapter 2.20 of the North Slope Borough Code and these Personnel Rules

(A) apply to all positions and employees in the classified service pursuant to NSBMC §2.20.090;

(B) apply to positions and employees in the partially exempt service only as specifically provided pursuant to NSBMC §2.20.090 and §2.20.120; and

(C) do not apply to persons or positions in the exempt service except as otherwise provided by law pursuant to NSBMC §2.20.110.

§1.02.2 BOROUGH SERVICE DEFINED. The Borough service is comprised of the exempt service, the partially exempt service and the classified service.

§1.02.3 EXEMPT SERVICE DEFINED. As stated in NSBMC §2.20.110, the exempt service is comprised of the following positions:

(A) Borough offices elected by popular vote such as the Mayor and Assembly seats;

(B) positions created for the purpose of hiring a person in a professional capacity to make a temporary and special inquiry, study or examination as authorized by the Mayor, the Assembly or lawfully constituted Borough commissions or boards; and

(C) seats on Borough boards, commissions and authorities.

§1.02.4 PARTIALLY EXEMPT SERVICE DEFINED. As stated in NSBMC §2.20.120, the partially exempt service is comprised of the following positions:

(A) the Borough Attorney;

(B) department directors and deputy directors;

(C) special assistants and all positions in the Mayor's office;

(D) special assistants and division managers in positions involving policy making decisions; and

(E) other positions designated partially exempt by the Mayor pursuant to NSBMC §2.20.120 and §2.20.130.

§1.02.5 CLASSIFIED SERVICE DEFINED. As stated in NSBMC §2.20.100, the classified service consists of all positions not included in the exempt or partially exempt service. The classified service encompasses:

- (A) permanent Borough positions whose duties and responsibilities involve a regular and continuing function within a Borough department and are of indefinite duration; and
- (B) other positions which by their function, their expected duration or the nature of the appointment made thereto involve and grant only nonpermanent employment or status.

CHAPTER 1.03 - AUTHORITY

§1.03.1 APPOINTING AUTHORITY. Pursuant to NSBMC §2.20.020, the Mayor is the appointing authority for all officers and employees of the Borough and that authority is delegated only to the extent expressly provided in these rules.

§1.03.2 DELEGATION OF OTHER DUTIES REGARDING PERSONNEL. Pursuant to Charter Sec. 5.010(b)(9), NSBMC §2.20.150(A)(21) and as specifically provided in these rules, certain duties and responsibilities regarding personnel administration are delegated by the Mayor to the Human Resources Department and to other departments of the Borough.

§1.03.3 PERSONNEL ACTIONS. All personnel actions initiated by the Borough which affect any position in the classified and partially exempt services or any employee appointed to such position shall be issued in writing and required approvals obtained prior to being instituted. A record of all personnel actions shall be maintained in appropriate files by the Human Resources Department. The Director of Human Resources may prescribe standardized forms for these purposes.

§1.03.4 ENFORCEMENT AUTHORITY. (A) The Director of Human Resources shall review all proposed personnel actions to ensure compliance with these rules and approval is required prior to such actions being considered final and authorized. The Director of Human Resources may withhold approval of a personnel action if it appears to violate any provision of Borough Code Chapter 2.20 or these rules and after consultation with the involved department director, may recommend alternative, corrective or remedial action.

(B) In any case where a possible violation of these rules may be indicated and a department director has failed to take corrective or remedial action within a reasonable period of time, the Director of Human Resources shall inform the Mayor who may take whatever action necessary to secure resolution.

(C) In the event a personnel action is taken affecting the substantial rights of an employee and the personnel action is later determined to be in error, the Mayor may authorize or direct the Director of Human Resources or other department director to take any permissible action necessary to:

- (1) correct the status of an employee;

(2) bring an employee's salary into conformance with the position classification plan and the pay plan; and

(3) correct any appointment which is not in accordance with the law or these rules.

(D) Any commitment or directive by a supervisor that violates the North Slope Borough Code, these rules, or Borough Policies is invalid.

§1.03.5 INTERPRETATIONS AND CLARIFICATIONS OF THESE RULES. In the event there is a need to clarify or interpret any provision in these rules, the request shall be forwarded to the Director of Human Resources. The Director of Human Resources shall first determine whether a memorandum opinion is appropriate or if the issuance of an interpretative bulletin is needed. The Director of Human Resources may consult with the Law Department, as necessary, on any matter raised in a request for clarification or interpretation.

§1.03.6 ISSUANCE OF MEMORANDUM OPINION. A memorandum opinion shall be issued for an interpretation or clarification which appears to implicate only an individual employee and an extraordinary circumstance not likely to recur. Such an opinion shall be prepared by the Director of Human Resources and furnished to the requesting department. A memorandum opinion may only be relied upon to resolve the specific situation.

§1.03.7 ISSUANCE OF INTERPRETATIVE BULLETIN. (A) An interpretative bulletin shall be issued when a clarification or interpretation of a provision in these rules appears to implicate a group of employees, one of the Borough services as a whole or Borough employees in general. This type of bulletin shall be prepared by the Director of Human Resources, and approved and issued by the Borough Mayor. It shall be distributed to and posted in all departments.

(B) All interpretative bulletins shall be numbered consecutively and a permanent file of these documents shall be maintained by the Human Resources Department. Copies shall be made available to Borough employees and the members of the public upon request.

§1.03.8 LEGAL EFFECT OF INTERPRETATIVE BULLETIN. An interpretative bulletin issued by the Mayor is considered a supplement to these rules and will be given the deference and evidentiary value prescribed by law for interpretations of regulations made by the authority in which the power to issue and adopt same has been vested.

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CHAPTER 2.01 - TERMS OF EMPLOYMENT: CLASSIFIED SERVICE

§2.01.1 STATUS OF EMPLOYEE APPOINTED TO POSITION IN THE CLASSIFIED SERVICE.

Classified service is established in NSBMC §2.20.100 and is defined in §1.02.5 of these rules. An employee who is appointed to a position in this service shall, as detailed below, have either probationary status, permanent status or nonpermanent status in his or her position. The status of the employee determines the benefits and other rights to which the employee is entitled.

§2.01.2 MERIT SYSTEM PRINCIPLES APPLICABLE TO APPOINTMENTS

LEADING TO PERMANENT STATUS. An appointment to a permanent position in the classified service which may lead to permanent status in that position is governed by the principles of the merit system as stated in NSBMC §2.20.010 and relevant provisions and procedures in these rules as required by NSBMC §2.20.150. Merit system principles applicable to these positions include:

- (A) open consideration of qualified applicants for initial appointment;
- (B) selection for appointment and advancement based on relative ability, knowledge and skills;
- (C) integrated salary programs based on the nature of the work performed;
- (D) retention of employees based on the adequacy of performance with reasonable efforts of a temporary nature to correct inadequate performance;
- (E) separation for cause;
- (F) equal treatment of applicants and employees on the basis of the merit principle; and
- (G) selection for and retention of an employee's position free from political influence.

§2.01.3 METHODS OF FILLING PERMANENT POSITIONS. (A) Internal

Announcement. At the request of a department director, the Director of Human Resources may approve recruiting of applicants for an open position from all employees.

(B) External Announcement. At the request of a department director, the Director of Human Resources may approve recruiting of applicants for an open position from any interested person, regardless of employment with the North Slope Borough. Position announcements will be posted in public places within the North Slope Borough. With prior approval from the Human Resources Department, departments may place advertisements in public, vocational, or professional newspapers, and other public media to obtain qualified applicants.

§2.01.4 TRANSFER OF PERMANENT OR PROBATIONARY EMPLOYEE. Employees that hold permanent or probationary status with the North Slope Borough may transfer to other jobs or positions within the Borough service. A promotional appointment, lateral transfer and a voluntary demotion can occur when the employee applies for an open position and is selected and approved to fill the open position. Transfers may also occur as follows:

(A) Lateral Transfer. An employee may receive a lateral transfer into an open position that is posted internally when an employee requests the lateral transfer in writing and has approval from the hiring department director and the Director of Human Resources. To laterally transfer into an open position, the employee must meet the required qualifications of that position.

(B) Voluntary Demotion. To voluntarily demote into an open position, the employee must meet the required qualifications of the position. A voluntary demotion may occur when an employee requests in writing to voluntarily demote to an open position and has approval from the hiring department director and the Director of Human Resources.

§2.01.5 PROBATIONARY STATUS. (A) Probationary Period Required. Each employee who is appointed to a permanent position in the classified service, with the exception of certain police department positions under subsection (D), is subject to a six (6) month probationary period. An employee may not be granted permanent status in his or her position until this probationary period and any approved extensions have been successfully completed. Time served in the same or a similar position as a permanent, partially exempt, emergency, nonpermanent, program or project appointee shall not be counted as part of any probationary period.

(B) Purpose of Probationary Period. The primary purpose of the probationary period is to determine whether the appointee has and can effectively utilize the required skills and knowledge in accomplishing job duties and responsibilities and is otherwise suitable for the position. This period is also utilized to evaluate the potential of the appointee for success in the position if granted permanent status.

(C) Extension of Probationary Period. Except for certain police department positions under subsection (D), an employee's probationary period may be extended up to an additional three (3) months to allow further consideration of the employee's fitness for permanent status in his or her position. An extension may be contemplated when additional time may result in necessary improvement to the employee's performance. An extension may also be granted under circumstances where the probationary employee has been excusably absent from work for a significant time during the probationary period. Any extension requires approval from the Director of Human Resources prior to the expiration of the employee's probationary period.

(D) Sworn police, corrections, and dispatch positions in the Police Department are subject to a one year probationary period that may not be extended; however, promotional appointments within sworn police, corrections, and dispatch positions serve a six month probationary period with a possible three month extension.

(E) Discharge Without Cause and Without Right of Appeal. An employee in probationary status has no expectation of continued employment until permanent status in his or her position has been achieved. The probationary employee may be discharged at any time without cause and without right of appeal. No property interest in the position is created or granted while the employee is in probationary status and no substantive or procedural due process rights are implicated or available.

(F) Written Notice of Discharge Required. An employee in probationary status may be discharged, at the discretion of the department director at any time upon written notice. The notice shall state that the services of the employee are no longer required and shall be filed with the Director of the Human Resources Department.

§2.01.6 PROBATIONARY PERIOD FOLLOWING PROMOTIONAL APPOINTMENT.

(A) Promotional Appointment Defined. A promotion occurs when a current permanent employee is raised in pay range within the Borough service.

(B) Promotion of Employee with Permanent Status. An employee who has permanent status in a position at the time he or she receives a promotional appointment to a new position shall serve the requisite probationary period before being granted permanent status in the new position.

(C) Promotion of Employee in Probationary Status. An employee who has probationary status in a position at the time he or she receives a promotional appointment shall serve the requisite probationary period in the new position. During this period, the employee may be discharged without cause at any time at the discretion of the department director, without right of appeal. The employee shall not attain permanent status in the previously held position.

§2.01.7 PROBATIONARY PERIOD FOLLOWING LATERAL TRANSFER OR

DEMOTION. An employee in probationary or permanent status who applies for and is appointed to another position in the same pay range in the classified service or an employee who is voluntarily demoted to another position in the classified service shall serve the requisite probationary period for that position. During this period, the employee may be discharged without cause at any time at the discretion of the department director without right of appeal. The employee shall not retain or attain permanent status in the previously held position.

§2.01.8 EMPLOYMENT BENEFITS UNINTERRUPTED. In the case of a lateral transfer, promotion or demotion where employment is continuous, no break in service need be recorded and all employment benefits for which the employee has qualified shall continue without interruption.

§2.01.9 REDUCTION IN FORCE OF EMPLOYEES IN PERMANENT OR PROBATIONARY STATUS. In all instances where there is reduction in force of a classified position due to a lack of work, a lack of funds, or reorganization or restructuring, the employee will be separated from service in the manner prescribed by the rules set out below.

(A) No employee in probationary or permanent status in a classified position shall be subject to reduction in force while there are any nonpermanent employees serving in a permanent budgeted position, with an equal or lower pay range in the same department for which the permanent or probationary employee is qualified.

(B) In each job number within each business unit of a department, the order of reduction in force shall be based upon performance reports and seniority. Between performance reports and seniority, priority shall be given to seniority. Seniority shall be calculated from the most current date of hire for that job number. Preference shall be given to permanent employees.

(C) Within each department the director may allow an employee to volunteer for reduction in force. Before a department director can consider a voluntary reduction in force, the employee must submit their request in writing through their supervisor.

(D) In every case of reduction in force of a permanent employee, the department director shall give written notice to the employee at least ten (10) working days before the date of separation. The department director must obtain the approval of the Director of Human Resources before sending written notice.

(E) The classified service consists of all positions in the Borough service not included in the exempt service, or in the partially exempt service. A unique job number identifies each position in the classified service.

§2.01.10 ACHIEVING PERMANENT STATUS. (A) Satisfactory Completion of Probationary Period. An employee achieves permanent status in his or her position in the classified service only upon satisfactory completion of a probationary period pursuant to § 2.01.5. An employee's qualification for medical benefits, annual leave, entrance into the public employment retirement system or any other benefits during an employee's probationary period does not make such an employee permanent. The listing of an employee as permanent on any Borough forms or other documents prior to the employee's completion of the probationary period does not grant the employee permanent status.

(B) Date Permanent Status Attained. Unless the employee separates from service, is demoted, promoted or laterally transferred, or the probationary period is extended in accordance with these rules, the employee shall attain permanent status in his or her position the day following the end of the probationary period.

§2.01.11 PERMANENT STATUS. (A) Discharge Only for Cause. Persons who have achieved permanent status in the classified service of the Borough may only be discharged or otherwise separated from that position for cause.

(B) Cause Defined. Cause for discharge or separation may be for any reason, supported by substantial evidence, which is not arbitrary, capricious or unlawful. Cause includes, but is not limited to:

(1) serious infractions of the code section or rules governing conduct and job performance;

(2) continued unwillingness or inability on the part of the employee to correct unacceptable actions or job performance;

(3) the abolition of the employee's position in an authorized reorganization occasioned by a material change in departmental structure or mission;

(4) a reduction in force due to lack of work or lack of funds; or

(5) arrest and conviction of a crime if, in the opinion of the administration, such conviction would impinge upon, or affect the performance of, the employee's job-related functions.

(C) Property Interest Created and Defined. To the extent that Alaska law recognizes that certain employment creates a protected property right possessed by the employee, a property interest is created only in the specific position held by the employee in the classified service upon the achievement of permanent status. This property interest, as created and granted by the Borough, consists only of a reasonable expectation of continued employment in that position of which the employee may not be deprived without due process of law. Except as otherwise provided in these rules, this property interest is extinguished when the employee, for any reason whatsoever, leaves the position in which he or she has attained permanent status.

§2.01.12 NONPERMANENT APPOINTMENTS: GENERALLY. (A) Provisions for nonpermanent appointments in these rules are required by NSBMC §2.20.150 and the separate terms and conditions applicable to the various types of nonpermanent appointments to positions in the classified service as set forth in NSBMC §2.20.200 and §2.20.220. Specifically, these code sections provide for temporary (120 day) appointments, emergency appointments, provisional appointments, substitute appointments and project or program appointments. An employee holding such an appointment to a position in the classified service serves in nonpermanent status.

(B) Borough employees in nonpermanent status are not eligible for the employment benefits available to employees in the partially exempt service or employees in probationary or permanent status in positions in the classified service, except as such benefits are otherwise provided by law.

(C) Borough employees in nonpermanent status serve at the will of the hiring authority, have no expectation of continued employment with the Borough and may be discharged at any time without cause and without right of appeal.

(D) A department or agency may use nonpermanent employees to perform a given work assignment for no more than 120 calendar days in a twelve (12) month period. This does not apply to program, project or substitute employees.

§2.01.13 NONPERMANENT APPOINTMENT AS TEMPORARY EMPLOYEE. (A) An appointment of an individual as a temporary employee to fill an authorized permanent position in the classified service may be made under the following conditions:

(1) the hiring department has certified that there is an immediate need to fill a position and the need could not have been anticipated and met through normal requisition procedures;

(2) the Director of Human Resources determines that such an appointment is appropriate; and

(3) adequate appropriated funds are available for the anticipated duration of the appointment.

(B) An appointment as a temporary employee under this section is limited to 120 calendar days in a twelve (12) month period. For each employee, the 120 days begins running on the initial date of hire. The Mayor may authorize one extension not to exceed 120 calendar days during that twelve (12) month period upon a showing of immediate need.

§2.01.14 NONPERMANENT APPOINTMENT AS EMERGENCY EMPLOYEE. Where immediate action is necessary to carry on work required for the public interest, a department director may appoint an individual to serve as an emergency employee for a period not to exceed thirty (30) days. NSBMC § 2.20.220. Unless circumstances do not permit, prior approval of the Director of Human Resources must be obtained. The hiring department director shall, as soon as

possible, forward the appropriate personnel action form to the Human Resources Department and follow all required procedures.

§2.01.15 NONPERMANENT APPOINTMENT AS SUBSTITUTE EMPLOYEE.

(A) Under circumstances where an employee with probationary or permanent status in a position in the classified service is expected to be away from his or her position for an extended period of time, or where employees must replace or supplement employees, an employee may be appointed to fill that position as a substitute employee. Substitute employees are limited to the Health and Police Departments. Substitute appointments should be made in instances where the appointment of an emergency employee or 120 day temporary employee would be inappropriate. Examples of these instances include when the incumbent is on extended annual leave, an approved leave of absence without pay, or extended family or medical leave, or when staff shortages may result in program closure, [ø] grant and licensing noncompliance, or risk to public safety. Such a nonpermanent appointment is authorized by NSBMC §2.20.200(F).

(B) As a nonpermanent appointment, the substitute employee may be terminated at any time without cause and without right of appeal. The substitute employee is not eligible for the employment benefits provided by the Borough to employees in the partially exempt service or employees in probationary or permanent status in the classified service except those otherwise required by law. The maximum duration of substitute appointment extends only to the time the position's incumbent returns to work or the authorized leave period ends, or the Borough hires a permanent employee to perform the work done by the substitute employee, whichever occurs earlier.

§2.01.16 NONPERMANENT APPOINTMENT AS PROJECT OR PROGRAM

EMPLOYEE. (A) As defined in NSBMC §2.20.220, a project or program employee is a nonpermanent employee who is employed in the Borough service for a project or program which is not a regular and continuing function of a Borough department and which has a probable date of termination.

(B) The possible duration of an appointment as a project or program employee is related to the type and nature of the project or program and there is no limitation imposed by these rules as to the length of time such an employee may be employed. No expectation of continued or permanent employment is created or implied by the duration of the appointment. Having nonpermanent status, project or program employees may be discharged at any time without cause and without right of appeal. They are likewise not entitled to the employment benefits provided by the Borough to employees in the partially exempt service or employees in probationary or permanent status in the classified service except those otherwise required by law.

CHAPTER 2.02 - TERMS OF EMPLOYMENT: PARTIALLY EXEMPT SERVICE

§2.02.1 THE PARTIALLY EXEMPT SERVICE: BASIC PROVISIONS. The partially exempt service is established and its positions described in NSBMC §§2.20.120, 2.20.130 and 2.20.260, and §1.02.4 of these rules. These provisions contemplate a service, separate from the classified service, based on the principles of at-will employment as expressly permitted by AS 29.20.410(b). NSBMC §2.20.260 provides that all persons appointed to positions in this service

serve solely at the pleasure of the Mayor and may be discharged at any time without cause and without right of appeal.

§2.02.2 MERIT SYSTEM PRINCIPLES GENERALLY NOT APPLICABLE. Principles of the merit system of personnel administration as stated in NSBMC §2.20.010 are generally inapplicable to this service except as specifically provided by Borough ordinance. In this regard, NSBMC §2.20.120 provides:

(A) all positions in the partially exempt service are to be included in the position classification plan and compensation for each is to be established according to the pay plan;

(B) all positions and appointments are specifically exempt from provisions and procedures related to employee recruitment and selection methods, competitive examinations, Borough employment registers, eligibility lists, eligibility certifications and probationary periods;

(C) all provisions and procedures related to promotional appointments, emergency appointments, provisional appointments, nonpermanent appointments, lateral transfers and reduction in force are inapplicable to positions in the partially exempt service; and

(D) any employee holding such a partially exempt position is expressly not entitled to seek review of disciplinary actions, or to receive overtime pay unless otherwise required by the Fair Labor Standards Act.

§2.02.3 DEMOTION OR TRANSFER TO CLASSIFIED SERVICE. Partially exempt employees may only demote or otherwise transfer to positions in the classified service after applying for an open advertisement and after being selected through competitive examination.

§2.02.4 NO PROPERTY RIGHT CREATED OR GRANTED. No property interest of any kind whatsoever is created or granted by the Borough upon appointment to a position in the partially exempt service and consequently, the related protections of substantive and procedural due process are not implicated or available upon discharge.

§2.02.5 EMPLOYMENT BENEFITS. Partially exempt employees are entitled to the same employment benefits and on the same terms and conditions as employees holding probationary or permanent appointments to positions in the classified service. As used herein, “employment benefits” refer to annual leave accruals, other leave provisions, paid holidays, coverage by the Borough health and life insurance plans, enrollment in the Public Employees Retirement System (PERS), and elective participation in the deferred compensation and thrift plans.

§2.02.6 OTHER AT-WILL EMPLOYMENT RIGHTS APPLICABLE. Other rights and protections applicable to at-will employment which are provided by local, state and federal law or are a derivative from the state and federal constitutions apply to Borough employees in the partially exempt service.

CHAPTER 2.03 - HOURS OF WORK, PAY AND OVERTIME

§2.03.1 BOROUGH WAGE AND HOUR MATTERS: GENERALLY. Borough wage and hour matters are governed by provisions of the Fair Labor Standards Act. (29 U.S.C. §201, et seq.) and related federal regulations promulgated by the U.S. Department of Labor as set forth in 29 C.F.R. Part 516 through Part 791. The Borough is expressly exempt from provisions of the Alaska Wage and Hour Act (AS 23.10.050, et seq.).

§2.03.2 HOURS OF WORK. (A) Normal hours of work for Borough employees correspond to the regular business hours of the Borough: Monday through Friday from 8:30 a.m. to 12:00 noon and from 1:00 p.m. to 5:00 p.m.. A regular workday consists of 7.5 work hours and a regular work period consists of five (5) regular workdays for a total of 37.5 hours for full-time employees.

(B) For payroll purposes, the Borough work period commences at 12:00 midnight on Friday and ends at 11:59 p.m. the following Thursday. A Borough pay period consists of two such consecutive work periods.

(C) Department directors are authorized to adopt different work hour, lunch hour and workday schedules for their employees or departmental units where necessary. Schedules that provide for other than 7.5-hour workdays and work periods of five consecutive workdays require prior approval of the Director of Human Resources.

(D) Except as otherwise provided in this chapter, this section applies to all employees in the partially exempt and classified service.

§2.03.3 WORK PERIOD FOR POLICE OFFICERS, CORRECTIONS OFFICERS AND CERTAIN FIRE DEPARTMENT EMPLOYEES ENGAGED IN FIRE PROTECTION ACTIVITIES. As permitted by the Fair Labor Standards Act (29 U.S.C. §207(k)) the Borough maintains a 14-day work period for police officers, correctional officers and certain fire department employees engaged in fire protection activities. The 14-day work period under this section coincides with the Borough's bi-weekly pay period.

(A) Adopting the 207(k) exemption relieves the Borough of its obligation to pay overtime compensation to police and corrections officers until after the number of hours worked by the officer exceeds 85 hours in the work period.

(B) Adopting the 207(k) exemption relieves the Borough of its obligation to pay overtime compensation to certain fire department employees engaged in fire protection activities until after the number of hours worked by the employee exceeds 106 hours in the work period. For purposes of this chapter, the Borough adopts the definition of "employee engaged in fire protection activities" in 29 C.F.R. § 553.210.

§2.03.4 PAID HOLIDAYS. (A) All employees in the partially exempt service and employees in probationary or permanent status in a position in the classified service are eligible to receive

time off with regular pay on holidays observed by the Borough. Nonpermanent employees are not eligible to receive time off with pay on holidays.

(B) Every day designated by public proclamation by the Mayor of the North Slope Borough as a legal holiday, and the following days are observed as Borough holidays:

<u>Holiday</u>	<u>Date Observed</u>
1. New Year's Day	January 1
2. Martin Luther King Day	Third Monday in January
3. Presidents Day	Third Monday in February
4. Seward's Day	Last Monday in March
5. Memorial Day	Last Monday in May
6. Founder's Day	July 2
7. Independence Day	July 4
8. Labor Day	First Monday in September
9. Indigenous People's Day	Third Monday in October
10. Alaska Day	October 18
11. Inuit Day	November 7
12. Veteran's Day	November 11
13. Thanksgiving	Fourth Thursday and Friday in November
14. Christmas	December 25

(C) If a listed holiday falls on a Saturday, the preceding Friday shall be observed as the holiday. If the listed holiday falls on a Sunday, the following Monday shall be observed as the holiday.

(D) To be eligible for holiday pay, an employee must work the last regularly scheduled work day preceding the holiday and the first regularly scheduled work day following the holiday, or must be on approved leave. An employee on unapproved leave is not entitled to holiday pay.

(E) Hourly employees, except nonpermanent employees, who are required to work on a Borough holiday are entitled to receive holiday pay in addition to their regular pay for hours worked. Holiday pay shall be equal to the employee's regular hourly wage and shall be paid for each hour of the holiday, not to exceed 7.5 hours in any one day.

§2.03.5 PAY. (A) All Borough employees shall be paid according to the criteria established by the Borough pay plan.

(B) Hourly rates of pay will be paid except to employees who qualify for executive, professional and administrative exemptions under the Fair Labor Standards Act (29 U.S.C. §213 (a)(1)) and other employees who are not covered by overtime provisions under 29 U.S.C. §203(e)(2)(C).

(C) The Borough follows the principles of public accountability, as allowed under 29 C.F.R. §541.710, whereby a salaried employee must use annual leave or leave without pay for absences from work, including absences of less than one full work-day.

(D) Employees will be paid every other Friday at their division office or place of employment.

(E) No Borough employee, except the Mayor, has the authority to offer a specific pay rate without the approval of the Director of Human Resources.

§2.03.6 OVERTIME COMPENSATION. (A) Employees exempted from or not covered by the Fair Labor Standards Act, regardless of the number of hours worked in a work week, are not eligible for overtime compensation.

(B) An employee who is eligible for overtime compensation within the Fair Labor Standards Act and who is required to work in excess of 40 hours in a work period is compensated for hours worked in excess of 40 hours at one and one-half times the employee's normal hourly rate of pay.

(C) An exception to subsection (B) exists for police, corrections officers and certain fire department employees engaged in fire protection activities. Pursuant to 28 U.S.C. § 207(k):

(1) police and corrections officers receive overtime compensation when required to work in excess of 85 hours in the 14-day work period; and

(2) certain fire department employees engaged in fire protection activities receive overtime compensation when required to work in excess of 106 hours in the 14 day work period.

(3) Overtime compensation payable under this subsection is paid at one and one-half times the employee's normal hourly rate of pay.

§2.03.7 LIMITATION OF UNSCHEDULED WORK. (A) No supervisor may permit or otherwise allow an hourly employee eligible for overtime compensation to work in excess of scheduled hours in a work period without prior authorization. Violation of this rule is grounds for discipline, up to and including discharge.

(B) An hourly employee eligible for overtime compensation may not work in excess of scheduled hours in a work period without prior written approval of the department director or an appropriately authorized supervisor. Violation of this rule is grounds for discipline, up to and including discharge.

(C) An employee's work schedule may be adjusted to prevent the employee from working in excess of scheduled hours in any work period.

§2.03.8 COMPENSATORY TIME. (A) With the exception of nonpermanent employees and in accordance with the provisions of 29 C.F.R. §553.20, et seq., the Borough grants compensatory time off to hourly employees in lieu of cash payment for overtime hours worked subject to the following conditions:

- (1) the employee has agreed to this form of compensation prior to the performance of the work;
- (2) the employee has not accrued compensatory time in excess of 75 hours;
- (3) except as otherwise provided in this section, compensatory time off is computed at a rate of one and one-half hours of compensatory time off for each hour worked in excess of 40 hours per work week;
- (4) police and correctional officers are eligible for non-FLSA compensatory time at the rate of one hour of compensatory time off for each hour worked in excess of 75 hours but less than 86 hours in a work period. For hours worked in excess of 85 hours in a work period, police and correctional officers are paid one and one-half hours of compensatory time off for each hour worked; and
- (5) certain fire department employees engaged in fire protection activities are eligible for non-FLSA compensatory time at the rate of one hour of compensatory time off for each hour worked over 75 hours but less than 107 hours in a work period. For hours worked in excess of 106 hours in a work period, certain fire department employees engaged in fire protection activities are paid one and one-half hours of compensatory time off for each hour worked.

(B) The department director decides whether the employees in his or her department are paid for overtime hour's accrued in cash or in compensatory time. Overtime hours that result in the accrual of compensatory time in excess of the amounts provided in paragraph (A)(2) are paid in cash.

(C) Supervisors must ensure that employees are permitted to use their compensatory time within a reasonable time following accrual.

CHAPTER 2.04 - OTHER PROVISIONS

§2.04.1 OATH OF OFFICE. All employees of the Borough, upon appointment, must take and subscribe to the following oath of office:

I do solemnly swear or affirm that I will support and defend the Constitution of the United States, the Constitution of the State of Alaska and the North Slope Borough Charter, and that I will discharge my duties as to the best of my ability.

§2.04.2 DRUG AND ALCOHOL TESTING REQUIRED. (A) All employees, as a condition of employment, consent to the alcohol and drug testing required under the Borough's Safe Workplace Plan. Any employee who refuses to cooperate with or submit to testing as required by the nature of their position is subject to discipline up to and including discharge.

(B) The Safe Workplace Plan requires that:

(1) All Borough employees be subject to reasonable suspicion alcohol and drug testing and post-accident drug and alcohol testing;

(2) Borough employees who occupy positions where federal law mandates testing, otherwise referred to as "DOT regulated" employees, comply with the requirements of the federal regulations. Testing under federal mandate includes random testing, follow-up testing, post-accident testing, return to duty testing, pre-appointment testing and reasonable suspicion testing; and

(3) Borough employees whose continued employment is conditioned on successful completion of a treatment plan or improvement plan be subject to the testing required under said plan, which may include return to duty testing and follow-up testing situations.

(C) Comprehensive information on the Borough's drug and alcohol testing program is contained in the Safe Workplace Plan Employee Handbook. The handbook is furnished to all employees and copies made available to employees upon request, through the Personnel Division at the Human Resources Department.

(D) The Safe Workplace Program will

- (1) annually assess and report to the mayor on local drug and alcohol rehabilitation programs to determine whether adequate services are available;
- (2) contract with a professional service for drug and alcohol testing and analyses of specimens;
- (3) establish procedures for taking specimens;
- (4) develop a supervisory report form for drug and alcohol incidents;
- (5) establish a confidential filing system for all drug and alcohol testing information and incident reports separate from employee personnel files;
- (6) train supervisors on the drug and alcohol policy and in recognizing the symptoms of drug and alcohol abuse; and
- (7) conduct drug and alcohol testing policy orientation for all new employees.

(E) Mayoral appointees may be subject to testing in accordance with the mandate of an order issued by the Mayor.

(F) All contractors and other service providers shall be notified by ordinance

that compliance with the drug and alcohol testing policy will be a contractual condition for performing work for the North Slope Borough.

§2.04.3 TRAVEL TIME, ADVANCES AND ALLOWANCES. (A) Borough employees traveling on official business for the Borough away from their designated post of duty shall be provided travel expense allowances in accordance with these rules and the procedures and limitations set by the Department of Administration and Finance. Travel expense allowances are limited to those expenses that are necessary and proper to carry out official duties.

(B) No travel expense shall be provided to any employee without proper written authorization for the travel and the submittal of appropriately documented and approved travel claims. The employee is responsible for ensuring proper authorization and documenting all travel claims. Improper or excessive expenses shall be disallowed the employee by a department director or by the Department of Administration and Finance.

(C) Where appropriate, the Department of Administration and Finance may advance sums for travel expenses to an employee. Such sums advanced and not used are recoverable by setoff against and deduction from any wages or amounts due the employee or by such other legal means of recovery as may be necessary. Funds advanced and not used shall include sums for disallowed expenses as well as those for which the employee fails or is unable to provide appropriate documentation.

(D) The payment of wages for time in such travel shall be in accordance with provisions of the Fair Labor Standards Act (29 U.S.C. §201, et seq.) and related regulations at 29 C.F.R. §785.33 through §785.41 applicable to the employee.

§2.04.4 TRAVEL TIME AWAY FROM THE POST OF DUTY. (A) When an employee travels away from his or her designated post of duty overnight on approved business travel, time spent traveling during the employee's normal working hours on either regular scheduled working days or non-working days is considered work time (29 C.F.R. §785.39).

(B) Time spent on approved business travel away from an employee's designated post of duty outside of the employee's normal working hours will not be considered work time, except when:

(1) the travel is away from the designated post of duty and back for a special one-day assignment (29 C.F.R. §785.37); or

(2) an employee is called out to travel a substantial distance to perform emergency work (29 C.F.R. §785.36); or

(3) an employee with an irregular work week schedule travels during a scheduled non-working day, the employee's longest normal scheduled shift is used to determine which travel time is work time. For example, an employee normally works from 7:00 a.m. to 7:00 p.m. on three days and from 8:30 a.m. to 5:00 p.m. on the remaining day of the week. If the

employee travels during a scheduled non-working day, the hours from 7:00 a.m. to 7:00 p.m. shall be considered the employee's normal working hours.

(C) During travel time, regular scheduled meal breaks will not be counted as work time.

§2.04.5 COMPENSATION FOR BOROUGH EMPLOYEES WHO SERVE ON BOROUGH BOARDS AND COMMISSIONS. In addition to the honorarium and per diem allowance prescribed by NSBMC §2.24.020 for regular and special meetings, Borough employees who serve as members of Borough boards and commissions are entitled to receive their regular wages during time spent attending these meetings or may elect to receive \$250 loss of pay allowance in lieu thereof.

§2.04.6 BONDS. In accordance with NSBMC §2.20.280 and §2.20.300, employees of the Borough may be required by law or directive from the Mayor to furnish a corporate surety bond. The bond shall be in a form joint and several, be made payable to the Borough in the penal sum and include the terms and conditions required by law. The Borough shall pay the cost of any bond required.

§2.04.7 VOLUNTARY SEPARATION FROM BOROUGH SERVICE. (A) Resignation. Voluntary separation from Borough service through resignation should be accomplished by notifying the immediate supervisor a minimum of ten (10) working days prior to the intended separation date. The notice period before a resignation is effective shall not exceed ten (10) working days unless both the department director and the Director of Human Resources agree that a longer period is in the best interest of the Borough.

(1) An employee can resign either in writing or orally.

(a) An oral resignation shall be documented in writing by the resignee's immediate supervisor.

(b) An employee may rescind a written or oral resignation prior to 5:00 p.m. of the workday following the day the resignation was given.

(2) All resignations shall immediately be forwarded to the Human Resources Department with all necessary separation paperwork.

(3) The Director of Human Resources may initiate any investigation that appears to be warranted for the purpose of verifying the facts as to the reasons for resignation.

(B) Retirement. Retirement from Borough service is voluntary and in the discretion of the employee. Eligibility for and the payment of retirement benefits are governed by the provisions of the individual benefit plan in which the employee participates. Upon request, the Human Resources Department shall provide assistance and information to employees contemplating retirement.

(C) Date of Separation. The last day that the employee performed work according to their North Slope Borough job description at a North Slope Borough work location shall be the last day worked. The provisions of this subsection may be waived upon exigent circumstances beyond the control of the employee and at the discretion of the Director of Human Resources.

CHAPTER 2.05 - ANNUAL LEAVE

§2.05.1 ELIGIBILITY. Employees appointed to positions in the partially exempt service and employees in probationary or permanent status in positions in the classified service are eligible to receive annual leave. No annual leave may be used by an employee in the classified service until the employee has completed 90 calendar days of full-time service after appointment. An employee in nonpermanent status, regardless of the nature or duration of the appointment, shall not accrue annual leave.

§2.05.2 ANNUAL LEAVE ACCRUAL RATES. (A) A Borough employee who is entitled to annual leave and who is not a rotational employee as defined in NSBMC 2.20.220 shall accrue annual leave at the following rates:

<u>Years of Service</u>	<u>Accrual Rate Per Qualifying Hour</u>
Less than two years	.1231 hour
Two but less than five years	.1477 hour
Five but less than ten years	.1600 hour
Ten or more years	.1846 hour

(B) Rotational employees as defined in NSBMC 2.20.220 accrue annual leave at .1154 hour per qualifying hour, with no increase in the accrual rate for additional years of service.

(C) As used in this section “qualifying hours” means an hour for which the employee receives pay up to a maximum of 75 hours per pay period-with the following exception:

(1) The 75 hour maximum does not apply to Fire Department employees who work a 48/96 hour shift schedule; however, no leave is accrued on overtime hours worked.

(2) Fire Department employees covered by this exception must cash out all accrued leave, except 112.5 hours, when transferring to another Borough position.

(D) Qualifying hours includes hours actually worked, hours of paid leave, hours of compensatory time taken and paid, and hours of paid holidays.

(E) There is no accrual of annual leave during any period when the employee is absent without approved leave or is on leave without pay.

(F) As used in this section and effective for all employees hired after December 11,

1992, “years of service” includes only prior periods of service for the North Slope Borough in a status or position wherein annual leave was accrued.

(G) Changes in the rate of accrual take effect at the beginning of the pay period immediately following the pay period in which the employee completes the prescribed period of service. This day is referred to as the leave anniversary date.

§2.05.3 USE OF ANNUAL LEAVE. (A) For leave in excess of three working days, all employees must submit a written request on forms approved by the Human Resources Department. An employee shall be allowed to use accrued annual leave at any time the employee desires provided that it will not be detrimental to the respective department’s operations. Each department director shall establish such policies and procedures as are necessary in the department to assure that all employees are able to schedule and take accrued annual leave. The Mayor or department director may at any time direct an employee who has accrued in excess of 675 hours of annual leave to take leave.

(B) The department director may, upon prior notice to the employee, cancel the approved leave of absence at any time a critical event of an emergency nature requires the employee’s attendance at work.

(C) Each employee shall take at least 112.5 hours of annual leave during each calendar year beginning January 16 and ending January 15. It is the responsibility of each department director to ensure that each permanent employee is given the opportunity to use at least this amount of leave. If an employee does not take 112.5 hours of annual leave during this period, the leave may be deducted from the employee’s accrued leave balance. Under extraordinary circumstances, the deduction may be waived when the employee had been prevented from using the leave due to the circumstances of his or her employment and it would otherwise be unjust.

(D) Following application of subsection (C), an employee’s accrued annual leave may accumulate to a maximum of not more than 675 hours on January 15 of any calendar year; provided that any excess of accrued leave over 675 hours shall, at the option of the Mayor, be paid in cash or scheduled to be taken prior to January 15.

(E) Any employee who fails to return to work at the end of an authorized leave or when such leave is canceled shall be subject to discipline up to and including discharge.

§2.05.4 CASH PAYMENT OF ANNUAL LEAVE. Up to four times per calendar year an employee may request cash instead of accrued leave using a written form supplied by the Department of Administration and Finance. Leave cash out requests must be for at least 37.5 hours. The employee must retain a balance of at least 112.5 hours of accrued annual leave in his or her leave account following a leave cash out.

§2.05.5 CASH PAYMENT OF ANNUAL LEAVE: SEPARATION FROM SERVICE. Any unused annual leave that an employee has accrued will be paid in a lump sum at the time the employee separates from Borough service. If paid by check apart from the regular payroll check, it shall be paid within three (3) working days following separation, subject to the set off provisions in § 2.04.3(C) of these rules.

§2.05.6 DONATION OF ACCRUED LEAVE TO BENEFIT FELLOW EMPLOYEES.

Borough employees may donate accrued annual leave hours to a central account maintained by the Department of Administration and Finance for the benefit of fellow employees. The Director of Administration and Finance shall prescribe the process whereby leave may be donated and how payment of this leave may be requested by or on behalf of an employee. Donated leave may be granted to a Borough employee only under the most serious of circumstances which are beyond the employee's control.

CHAPTER 2.06 - OTHER FORMS OF LEAVE

§2.06.1 FAMILY AND MEDICAL LEAVE. The Borough shall provide eligible employees family and medical leave in accordance with the federal Family and Medical Leave Act (29 C.F.R. Part 825) and the Alaska Family Leave Act (AS 39.20.500 et seq.). The benefits of these laws to eligible Borough employees are set forth in Borough Policy 26.

§2.06.2 MILITARY RESERVE LEAVE. In accordance with NSBMC §2.20.390(E), employees in probationary or permanent status in the classified service or employees in the partially exempt service who are members of a reserve component of the United States Armed Forces are eligible to receive their regular pay, in the form of military reserve leave, for absences from work when ordered to training duty, as distinguished from active duty, with troops or at field exercises, or instruction. This paid leave may not exceed 16 and ½ working days per federal fiscal year.

§2.06.3 COURT LEAVE. In accordance with NSBMC §2.20.390(G), employees in probationary or permanent status in the classified service or employees in the partially exempt service who are called to serve as jurors or are subpoenaed as witnesses in a federal, state or local judicial or administrative proceeding, are eligible to receive their regular pay, in the form of court leave, for absences from work. The following conditions apply to court leave:

(A) Employees shall notify their immediate supervisor prior to absence for court leave. Employees shall provide to the immediate supervisor documents such as a subpoena, a summons, and in the event they are serving jury duty, a clerk or court's statement of attendance along with a copy of their jury duty notice, or other documents evidencing the jury service or appearance as a witness.

(B) An employee receiving paid court leave is required to turn over to his or her department director, for deposit in the Borough treasury to the credit of the appropriation of the department, any compensation (excluding per diem) that is paid for those services.

§2.06.4 PUBLIC SERVICE LEAVE. NSBMC §2.20.390(H) provides that Borough employees who are appointed to or volunteer to provide unpaid essential public service are eligible to receive their regular pay, in the form of public service leave, for absences from work if the services must be performed during the employee's normal Borough working hours. As defined by § 2.24.020, board and commission members are not entitled to public service leave for time spent in the performance of those duties, but are compensated according to NSBMC § 2.24.020 (E) and (F). The following conditions apply to obtaining public service leave:

(A) The employee must have written approval from the Mayor containing a determination that the planned activity qualifies as an essential public service under this section.

(B) Absences from work and any request to use public service leave must be approved by the department director.

(C) An employee who accepts an honorarium and/or loss-of-pay for the public service is not eligible for public service leave.

(D) In the event any travel is required, the Borough will not be responsible for providing travel, per diem, or other costs for attendance.

(E) Pursuant to NSBMC §2.20.390(I), employees who are elected to city councils, cooperative or corporation boards, other public or non-profit Borough-wide boards or for profit private corporation boards are not eligible for public service leave for time spent attending meetings or functions of these entities during regular working hours.

(F) Nothing shall prevent the employee from using approved annual leave for the purpose of providing compensated or uncompensated public or quasi-public service.

(G) Public service leave is available to Borough employees in the partially exempt service, employees with probationary or permanent status in the classified service and to nonpermanent employees who are volunteering for fire fighting and search and rescue missions.

§2.06.5 INVESTIGATIVE LEAVE. When a department director determines the need to review a situation involving an employee, and determines that the employee should be away from the work site during such review, that employee may be placed on investigative leave. An employee shall normally be placed on investigative leave only when information available to the director reasonably suggests that the employee is likely to impede the investigation, disrupt the workplace, or present a risk of harm to the safety or well-being of other persons. Investigative leave shall extend only for the time necessary to complete an investigation review. It may not exceed two (2) work weeks unless an extension has been approved by the Mayor. Employees will be paid their regular rate of pay and will not be required to use annual leave. The department director shall obtain approval from the Director of Human Resources prior to placing an employee on investigative leave. An employee grievant shall not be placed on investigative leave unless he or she requests to be placed on investigative leave and, in the judgment of the director, it would accomplish the purpose for which investigative leave is authorized.

§2.06.6 LEAVE WITHOUT PAY. (A) In accordance with NSBMC §2.20.390(F), an employee in probationary or permanent status in the classified service or an employee in the partially exempt service may be allowed to take leave without pay from his or her position for a period not to exceed one year with the approval of the respective department director and the approval of the Mayor.

(B) A request for leave without pay shall only be granted if the benefit to the Borough outweighs the detriment of the absence.

(C) Leave without pay is subject to the following terms and conditions:

(1) leave without pay for more than three (3) consecutive work days shall not be granted in substitution for accrued annual leave, except that any unauthorized leave of absence will be deemed leave without pay, subject to Fair Labor Standards Act requirements;

(2) the period an employee is on leave without pay shall not be considered as a period of creditable service for determining annual leave accrual rates;

(3) upon prior written notice to the employee specifying a reasonable date of termination, the department director, with the approval of the Mayor, may cancel the leave without pay if such action would serve the best interest of the Borough;

(4) a department director, with the approval of the Mayor, may cancel the leave by notice to the employee at any time it is found that the employee is using the leave for purposes other than those specified at the time of approval;

(5) any employee who fails to return to work at the end of an authorized leave without pay or when such leave is canceled shall be subject to discipline up to and including discharge;

(6) except as required by the Family and Medical Leave Act and/or Worker's Compensation, employees on leave without pay in excess of one (1) calendar month, shall not be covered by North Slope Borough Health and Life Insurance plans, unless they pay appropriate premiums according to a premium schedule developed by the Human Resources and Administration and Finance Departments and approved by the Mayor.

(D) Leave Without Pay for Military Service. (1) A permanent or probationary employee in the classified service or a member of the partially exempt service may be granted a leave of absence without pay for military service in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S.C. §4301 et seq.).

(2) Employees on leave without pay in excess of one (1) calendar month shall not be covered by North Slope Borough Health and Life Insurance plans, unless they pay appropriate premiums according to a premium schedule developed by the Human Resources and Administration and Finance Departments and approved by the Mayor.

(E) A permanent, probationary or partially exempt employee is entitled to twenty (20) working days of leave without pay each calendar year, in accordance with this section, for purposes of subsistence activities. An employee's department director must approve subsistence leave.

(F) A position made vacant by the granting of leave without pay under this section may be filled by a substitute appointment under 2.01.15.

CHAPTER 2.07 - GRIEVANCE PROCEDURE

§2.07.1 EMPLOYEE GRIEVANCES. Employees in the classified service who have a non-disciplinary grievance related to their employment may utilize the procedures outlined in this chapter.

§2.07.2 LIMITATION ON THE SUBJECT MATTER OF EMPLOYEE GRIEVANCES.

Grievances may address problems related to an employee's position, working conditions or other aspects of employment. They may not be used to grieve or otherwise dispute disciplinary actions, the contents of employee performance appraisals, or an employee's rate of compensation.

§2.07.3 EMPLOYEES GRIEVANCE PROCEDURE. (A) The employee shall first submit grievances in writing and seek to resolve the grievable matter with his or her immediate supervisor. Every effort to resolve the issues shall be made by both parties at this stage. The participants in a meeting to discuss the grievance shall be limited to the grievant and his or her immediate supervisor. There shall be no audio or video taping of the meeting. The supervisor and grievant may write confirming memoranda to be placed in the grievant's supervisory file.

(B) If the matter cannot be satisfactorily resolved by the employee's immediate supervisor, the employee may submit the matter in writing to the next level in the chain of command within the department.

(C) When the subject of a grievance is the conduct of the employee's immediate supervisor, at the request of the employee the department director shall assign consideration of the grievance to a supervisor of equivalent rank. When the subject of the grievance is the conduct of the department director, or there is a basis to believe that consideration of a grievance by the director would be inappropriate, at the request of the employee the Mayor shall consider the grievance.

(D) The department shall investigate and issue a response in a timely manner, but no later than sixty (60) calendar days from the filing of the grievance.

(E) An employee who believes he or she has been or is about to be constructively discharged may file a written grievance with his or her department director before resigning but no later than ten (10) days after his or her last day of work.

(1) If the director does not issue a written decision to the employee within twenty (20) days of the filing, the grievance is deemed to have been rejected.

(2) If the employee is not satisfied with the director's decision or if the written decision is not issued within the time prescribed, the employee may file a written appeal to the Personnel Board through the Director of Human Resources within five (5) working days of receipt of the decision or the date it was due, whichever is later.

§2.07.4 INTERDEPARTMENTAL GRIEVANCE PROCEDURE. Grievances involving another department within the Borough shall be filed in writing with the employee's department director who will endeavor to resolve the complaint by meeting with the director of the involved department. A written resolution shall be reached in a timely manner, but no later than sixty (60) calendar days from the filing of the grievance. If a satisfactory resolution is not possible, or a timely response is not made by the department, the employee may forward the grievance to the Mayor.

CHAPTER 2.08 - DEFINITIONS

§2.08.1 DEFINITIONS. (A) Job Status: This indicates the classification of the position. Classifications may be permanent, nonpermanent, partially exempt, or exempt.

(B) Job: The work performed by one or more similar positions and identified by a job description.

(C) Position: The location of a job within a particular department or division.

(D) Transfer: An employee transfers from one job or position to a different job or position without a break in service. Transfers apply only to employees moving from one job or position to another job or position in the same job status. Transfers include:

(1) Promotional Appointment: A promotional appointment is the transfer of an employee from a lower pay range job to a higher-pay range job within the same job status.

(2) Lateral Transfer: A lateral transfer is the transfer of an employee from one job title or position to a different job title or position with the same pay range within the same job status.

(3) Demotion: A demotion is the transfer of an employee from a higher pay range job to a lower pay range job within the same job status.

TITLE 3 - EMPLOYEE CONDUCT AND PERFORMANCE

Chapter 3.01 - Standards of Conduct and Performance

- §3.01.1 Employee Conduct and Performance: Generally
- §3.01.2 Job Descriptions
- §3.01.3 Employee Performance

Chapter 3.02 - Discrimination and Harassment

- §3.02.1 Discrimination and Harassment Prohibited
- §3.02.2 Discrimination in Employment Defined
- §3.02.3 Harassment Defined
- §3.02.4 Sexual Harassment Defined
- §3.02.5 Intent to Harass Not Required
- §3.02.6 Disciplinary Action
- §3.02.7 Retaliation Prohibited
- §3.02.8 Violations of This Chapter
- §3.02.9 Investigation and Corrective Action

Chapter 3.03 - Violence in the Workplace

- §3.03.1 Violence in the Workplace Prohibited
- §3.03.2 Violence in the Workplace Defined
- §3.03.3 Roles and Responsibilities
- §3.03.4 Investigation
- §3.03.5 Disciplinary Action
- §3.03.6 Retaliation Prohibited

Chapter 3.04 - Other Prohibited Acts

- §3.04.1 Improper Influence or Coercion
- §3.04.2 Eliciting Private Information
- §3.04.3 Conflicts of Interest
- §3.04.4 Borough Employment
- §3.04.5 Interference with Equal Opportunity for Employment
- §3.04.6 Resignation Required When Employee Seeks Public Office

CHAPTER 3.01 - STANDARDS OF CONDUCT AND PERFORMANCE

§3.01.1 EMPLOYEE CONDUCT AND PERFORMANCE: GENERALLY. (A) Public employees of the Borough have, as an integral part of their individual jobs, the obligation:

(1) to accomplish the duties and responsibilities of their positions and to perform all work assigned in accordance with directives and established standards;

(2) to possess, utilize and develop the knowledge, expertise and skills requisite for their position;

(3) to be punctual, regular in attendance and to comply with Borough policy and procedure as well as departmental work rules;

(4) to observe the rules of safety with regard to equipment, vehicles and the workplace;

(5) to preserve, protect and conserve Borough property and resources;

(6) to work effectively, amenable and courteously with all persons, including supervisors, subordinates, co-workers, customers and the public at large;

(7) to contribute measurably to the accomplishment of their unit's mission; and

(8) to comply with all federal, state and local laws, ordinances, rules and regulations that apply to the performance of the employee's duties and responsibilities.

(B) Borough employees who serve in supervisory, coordinating or management roles have, in addition, an obligation

(1) to possess, utilize and develop effective leadership, problem-solving and supervisory skills;

(2) to follow and enforce Borough policy and procedure and departmental work rules in a just and impartial manner; and

(3) to do all things necessary for the accomplishment of the mission of their unit and their department.

(C) The negligent or willful failure or inability of an employee to meet these obligations is grounds for disciplinary action, up to and including discharge in accordance with Title 4 of these rules.

§3.01.2 JOB DESCRIPTIONS. An employee's job description, including the description of essential duties and responsibilities, minimum training and experience qualifications, and other necessary specifications shall be the basis for evaluating employee conduct and performance. Duties outside the scope of the job description may be assigned only if they are reasonably related to the job description and are to be performed for short periods of time.

§3.01.3 EMPLOYEE PERFORMANCE. (A) The Director of Human Resources shall prescribe appropriate forms and procedures for the evaluation of employee performance.

(B) Employee performance appraisal procedures shall require:

(1) all employees in the partially exempt service and employees having permanent status in the classified service participate in and receive a written evaluation of work performance from their supervisor at least annually after achieving permanent status with the

Borough, according to their anniversary date with the Borough;

(2) an opportunity for the supervisor and the employee to discuss each performance appraisal; and

(3) notice to employees that an employee who disagrees with the substance of their appraisal may submit a written rebuttal that will be attached to the evaluation form and become a part of their permanent record.

(C) For the purpose of the Employee Performance Appraisal process, the anniversary date is defined as:

(1) the first day after the classified permanent employee completes the probationary period; or

(2) the first day after the partially exempt employee completes a six (6) month evaluation period, following the start date of any position.

(D) The reports and records of an employee's performance appraisal shall be filed with the Director of Human Resources and placed in the employee's permanent personnel file. Performance evaluations are not considered a public record, but may be inspected by Borough hiring managers when considering the employee for appointment to another position in the Borough. In addition, a performance evaluation may be used in accordance with §5.01.4 of these rules when the Borough is asked to provide a reference for a former employee.

(E) The Director of the Human Resources Department may investigate the accuracy of evaluation reports and take any necessary action to secure the adjustment of an evaluation to conform to the facts as ascertained.

(F) The Director of Human Resources shall take any action required to ensure that uniform rating standards are utilized by evaluating supervisors.

(G) The employee performance appraisal is not a grievable action.

CHAPTER 3.02 - DISCRIMINATION AND HARASSMENT

§3.02.1 DISCRIMINATION AND HARASSMENT PROHIBITED. All harassment of or discrimination against employees or applicants for employment, in any form whatsoever, on the basis of their sex, color, race, religion, national origin, age, physical or mental disability, marital status, changes in marital status, pregnancy, or parenthood is strictly prohibited.

§3.02.2 DISCRIMINATION IN EMPLOYMENT DEFINED. (A) Discrimination in employment means to refuse employment to a person or to bar a person from employment, or to discriminate against a person in compensation or in a term, condition, or privilege of employment because of the person's race, religion, color or national origin, or because of the person's age, physical or mental disability, sex, marital status, changes in marital status, pregnancy or

parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical or mental disability, sex, marital status, changes in marital status, pregnancy or parenthood..

(B) Discrimination in employment also includes disciplining, dismissing or otherwise discriminating against a person because the person has opposed discriminatory practices or has filed a complaint, testified or assisted in an investigation or other proceeding involving discrimination.

§3.02.3 HARASSMENT DEFINED. (A) Harassment includes any unwanted communication and/or conduct by a supervisor, co-worker or non-employee in the workplace that negatively affects the employment relationship or working environment for the employee or applicant for employment and is based on the sex, race, religion, national origin, age, physical or mental disability, marital status, changes in marital status, pregnancy, or parenthood of that individual. Harassment may include any unwanted communication and/or conduct by a supervisor, co-worker or non-employee outside the workplace that negatively affects the employment relationship or working environment for the employee or applicant for employment and is based on the sex, race, religion, national origin, age, physical or mental disability, marital status, changes in marital status, pregnancy, or parenthood of that individual.

(B) Harassment on the basis of race, sex, religion, ethnic origin or personal attribute includes conduct which is inherently derogatory of another person's race, sex, religion, ethnic origin, or personal attribute.

(C) As used in this section, "personal attributes" includes age, physical or mental disability, marital status, changes in marital status, pregnancy and parenthood.

§3.02.4 SEXUAL HARASSMENT DEFINED. (A) Sexual harassment, as defined by the U.S. Equal Employment Opportunity Commission, includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature;

(1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

(B) Conduct which may constitute sexual harassment includes but is not limited

to:

(1) negative/offensive comments or inquiries;

(2) jokes/suggestions concerning physical attributes;

- (3) sexual overtures;
- (4) sexual swearing;
- (5) slang terminology (e.g., babe, sweetie, stud);
- (6) obscene or lewd gestures;
- (7) physical contact (e.g., hugging, kissing, pinching, patting, touching); or
- (8) display of explicit literature, drawings, photographs, or birth control

items.

§3.02.5 INTENT TO HARASS NOT REQUIRED. A statement or action of an employee can be found to be harassment even if the person speaking or acting did not intend to harass or offend.

§3.02.6 DISCIPLINARY ACTION. (A) Persons who engage in or instigate such harassment or discrimination will be subject to disciplinary action, up to and including discharge.

(B) Supervisors who allow such harassment or discrimination to be carried out by employees under their supervision without taking action to stop the prohibited activity shall also be subject to disciplinary action, up to and including discharge.

(C) Where the prohibited activity is carried out by a non-employee, the Borough will take available and appropriate measures to stop the activity.

§3.02.7 RETALIATION PROHIBITED. Any form of retaliation or adverse action taken against an employee for complaining about, reporting, or cooperating in the investigation of harassment or discrimination is prohibited. Violation of this rule may result in discipline, up to and including discharge.

§3.02.8 VIOLATIONS OF THIS CHAPTER. Employees who believe they have been subject to discrimination, harassment or retaliation should contact their supervisor or department director. If the employee believes that the supervisor or director is involved in the activity, or that reporting the activity to the supervisor or director would be futile, or that the employee does not feel he or she could comfortably discuss the activity with the supervisor or director, the employee may contact the Human Resources Department.

§3.02.9 INVESTIGATION AND CORRECTIVE ACTION. All supervisors who receive a report of harassment, discrimination or retaliation should immediately advise their department director and the Director of Human Resources of the report. All department directors, managers, and supervisors are responsible for taking immediate and appropriate investigative and corrective action where they have any knowledge of such prohibited practices. Corrective actions should be taken only after consultation with the Human Resources Department or the Law Department.

CHAPTER 3.03 - VIOLENCE IN THE WORKPLACE

§3.03.1 VIOLENCE IN THE WORKPLACE PROHIBITED. Threatening or intimidating behavior and violence in the workplace are unacceptable conduct and will not be tolerated in the North Slope Borough.

§3.03.2 VIOLENCE IN THE WORKPLACE DEFINED. An action (verbal, written or physical aggression) that is intended to control another, or that is intended to cause, or is capable of causing, death or other serious bodily injury to oneself or others, or damage to property. Violence in the workplace does not include police training and field activities that comply with standard police practices. Workplace violence includes abuse of authority, intimidating or harassing behavior and threats. Actions include but are not limited to:

(A) Assault. To attack someone physically or verbally, causing bodily or emotional injury, pain or distress. This might include the use of a weapon, and includes, but is not limited to, actions such as hitting, punching, pushing, poking, kicking, shouting, or cursing.

(B) Use of Weapon. Use of a device, instrument, material or substance (animate or inanimate) that is used for or is capable of causing death or serious bodily injury. Weapons include, but are not limited to, guns, knives, clubs, chemicals, explosives, and vehicles.

(C) Intimidating or Harassing Behavior. Threats or other conduct that in any way creates a hostile environment, impairs department operations, or frightens alarms or inhibits others. Psychological intimidation or harassment includes making statements which are false, malicious, disparaging, derogatory, rude, disrespectful, abusive, obnoxious, insubordinate, or which have the intent to hurt another's reputation. Physical intimidation or harassment may include holding, impeding or blocking free movement, following, stalking, touching or any other inappropriate physical contact or advances.

(D) Sabotage. Any act to destroy, damage, incapacitate or contaminate property (animate or inanimate), equipment, supplies or data (e.g., hard copy files and records, computerized information); to cause injury, illness or death to humans; or to interfere with, disrupt, cripple, disable or hinder the normal operations or missions of the Borough.

(E) Stalking. A malicious course of conduct that includes approaching another person with the intent to place that person in reasonable fear of serious bodily injury or death to him/herself or to a third party.

(F) Threat. Any oral or written expression or gesture that could be interpreted by a reasonable person as conveying intent to cause physical harm to persons or property.

§3.03.3 ROLES AND RESPONSIBILITIES. (A) All employees, including managers and supervisors are responsible for:

(1) their own behavior and interacting responsibly with fellow employees and their supervisors;

(2) promptly reporting any acts of violence, threats, and similar disruptive behavior in the workplace to appropriate authorities;

(3) cooperating fully in investigations/assessments of allegations of workplace violence;

(4) seeking appropriate assistance (e.g., Human Resources Department) if they are experiencing stressful personal or work circumstances, emanating from any source, which may adversely affect their productivity or lead to unacceptable behavior; and

(5) informing appropriate persons in the employee's department about restraining orders and other protective court orders related to domestic situations so that assistance can be offered at the worksite.

(B) Managers and supervisors are additionally responsible for:

(1) ensuring that all employees are fully informed of and understand the North Slope Borough workplace violence policy and procedures;

(2) being cognizant of situations that have the potential to produce violent behavior and promptly addressing them with all concerned parties;

(3) encouraging employees who show signs of stress to seek and receive assistance;

(4) investigating and documenting allegations of workplace violence in a timely fashion, evaluating the rules and taking the necessary disciplinary

(5) assuring that employees have the time and opportunity to attend training concerning understanding and responding to threats or violence in the workplace.

(C) The Human Resources Department is responsible for:

(1) providing consultation and guidance to supervisors in dealing with employees with performance or conduct problems;

(2) providing training about dealing with violent and threatening behavior in the workplace; and

(3) participating in conducting workplace violence assessments or investigations.

§3.03.4 INVESTIGATION. All supervisors receiving a report of workplace violence should immediately advise their department director of the report. All department directors, managers,

and supervisors are responsible for taking immediate and appropriate investigative and corrective action where they have any knowledge of such acts.

§3.03.5 DISCIPLINARY ACTION. (A) Persons who engage in workplace violence will be subject to disciplinary action, up to and including discharge.

(B) Supervisors who allow workplace violence to be carried out by employees under their supervision without taking action to stop the activity shall also be subject to disciplinary action, up to and including discharge.

(C) Where a non-Borough employee carries out workplace violence, the Borough will take available and appropriate measures to stop the activity.

§3.03.6 RETALIATION PROHIBITED. Any form of retaliation or adverse action taken against an employee complaining about, or cooperating in the investigation of workplace violence is prohibited. Violation of this rule may result in discipline, up to and including discharge.

CHAPTER 3.04 - OTHER PROHIBITED ACTS

§3.04.1 IMPROPER INFLUENCE OR COERCION. No person employed by the Borough, in any capacity, may directly or indirectly:

(A) require or coerce any employee of the Borough to participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

(B) require or coerce any employee of the Borough to make any report concerning any of his or her activities or undertakings unless the activity or undertaking is related to the performance of his or her official duties; or

(C) coerce any employee of the Borough to invest or contribute his or her earnings in any manner or for any purpose.

§3.04.2 ELICITING PRIVATE INFORMATION. Except as directly related to the performance of official duties, no person employed by the Borough may require or coerce any employee of the Borough to submit to any interrogation or examination or psychological test which is designed to elicit from him or her information concerning the employee's personal relationship with any person connected with him or her by blood or marriage, the employee's religious beliefs or practices, any sexual matter, or the employee's political affiliation or philosophy.

§3.04.3 CONFLICTS OF INTEREST. (A) No employee of the Borough may engage in any business or transaction, or may own a financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties.

(B) An employee of the Borough may not participate in an official action in which the employee has a personal or substantial financial interest. For purposes of this section, "personal interest" and "substantial financial interest" are defined in NSBMC 2.22.020.

(1) An employee who has or reasonably expects to obtain a personal or substantial financial interest in a grant, contract, lease, permit, loan, or other Borough transaction, and who may take an official action that affects the grant, contract, lease, permit, loan or other Borough transaction is required to immediately report that interest in writing to his or her supervisor. The supervisor must prohibit the reporting employee from taking an official action that violates this subsection.

(2) An employee who aids another employee to violate this subsection (B) also acts in violation of this subsection.

(C) No person or employee shall use information peculiarly within his or her knowledge or purview concerning the property, government or affairs of the Borough to advance the financial or other private interest of himself or herself or others.

(D) No appointment shall be made to any position where such appointment would constitute or appear to constitute nepotism unless waived by the Mayor and reported to the Assembly. The Mayor may grant a waiver when the appointment is in the Borough's best interest.

(1) The prohibition includes the appointment of a person who cohabits with, is the spouse of, or is related by blood or marriage within and including the second degree of kindred to the direct supervising employee or department director.

(2) "Second degree of kindred" means a person who is, by blood or marriage, a father, mother, son, daughter, brother or sister in a full, half or step relationship.

(E) No employee shall engage in any employment, other than that assigned by the Borough, whether public, private or self-employment if such employment conflicts with the Borough's interest or adversely affects the employee's availability or productivity; however, an employee may hold a second job upon written approval by the respective department director.

§3.04.4 BOROUGH EMPLOYMENT. No employee of the North Slope Borough shall be allowed to hold more than one North Slope Borough job at a time, unless approved by both Department Directors (if the proposed employment will be in two separate Departments) and the Mayor. This applies to all North Slope Borough jobs whether they are partially exempt, permanent, probationary or nonpermanent.

§3.04.5 INTERFERENCE WITH EQUAL OPPORTUNITY FOR EMPLOYMENT. (A) No person may give, render, pay, offer, solicit, or accept money, service, or other valuable thing in connection with an appointment, promotion, or advantage in a position in the classified service.

(B) No person may require an assessment, subscription, contribution, or service for a political party from an employee in the classified service.

(C) No person may seek or attempt to use a political party endorsement in connection with an appointment or promotion in the classified service.

(D) No person may make a false statement, certificate, mark, rating, or report with regard to a test, certification, or appointment to or regarding a position in the classified service or in any manner commit a fraud preventing the impartial execution of these rules.

(E) No person may defeat, deceive, or obstruct another person in his or her right to examination, eligibility, certification, appointment, or promotion under this chapter.

(F) Violation of any item under this section is grounds for discipline, up to and including discharge.

§3.04.6 RESIGNATION REQUIRED WHEN EMPLOYEE SEEKS PUBLIC OFFICE. An employee in the classified service who seeks nomination or becomes a candidate for state or national elective political office shall immediately resign his or her position in the Borough service.

TITLE 4 - EMPLOYEE DISCIPLINE AND APPEALS

Chapter 4.01 - Disciplinary Actions

- §4.01.1 Employee Discipline: General Provisions
- §4.01.2 Progressive Discipline Defined
- §4.01.3 Investigation Required
- §4.01.4 Appropriate Discipline
- §4.01.5 Procedure: Counseling Session
- §4.01.6 Procedure: Verbal Warning
- §4.01.7 Procedure: Written Reprimand
- §4.01.8 Procedure: Suspension for Fifteen (15) Working Days or Less
- §4.01.9 Procedure: Suspension of More Than Fifteen (15) Working Days, Demotion, or Discharge
- §4.01.10 Alternative Disciplinary Process

Chapter 4.02 - Appeals

- §4.02.1 Waiver
- §4.02.2 Time Limits and Extensions
- §4.02.3 Procedure: Appeal of Written Reprimand
- §4.02.4 Procedure: Appeal of Suspension of Fifteen (15) Working Days or Less
- §4.02.5 Procedure: Appeal of Suspension of More Than Fifteen (15) Working Days, Demotion, or Discharge
- §4.02.6 Personnel Board Hearing Upon Appeal of Suspension of More Than Fifteen (15) Working Days, Demotion, or Discharge
- §4.02.7 Appeal of the Personnel Board or Hearing Officer's Decision

CHAPTER 4.01 - DISCIPLINARY ACTIONS

§4.01.1 EMPLOYEE DISCIPLINE: GENERAL PROVISIONS. North Slope Borough employees in permanent positions in the classified service are subject to progressive discipline under this chapter and are entitled to the appeal process. Disciplinary actions may be taken against other Borough employees; however, they are not subject to provisions of this chapter.

§4.01.2 PROGRESSIVE DISCIPLINE DEFINED. (A) Progressive discipline is used in an effort to correct or improve an employee's inadequate performance. Progressive discipline refers to the levels of discipline deemed appropriate on the basis of the progressively serious nature of rule infractions, improper conduct, or inadequate performance. Depending on the seriousness of the infraction, various levels of discipline may be imposed. As infractions or violations become more serious, the level of discipline should be greater.

(B) The levels of progressive discipline that may be imposed on a classified Borough employee are: verbal warning; written reprimand; suspension for fifteen (15) working days or less; suspension for more than fifteen (15) working days; demotion; or discharge. However, the imposition of one level of discipline shall not be construed to be a prerequisite for the imposition of any other level of discipline.

(C) Discipline must be issued in a fair and consistent manner.

(D) Discipline should happen within a reasonably short time after, and should be proportional to the event(s) giving rise to the need for the disciplinary action.

§4.01.3 INVESTIGATION REQUIRED. (A) In response to any evidence or allegation(s) of wrongdoing by an employee subject to this chapter, the supervisor or other designated person shall first conduct a thorough investigation of the facts and circumstances of the allegation(s) to determine if disciplinary action should be contemplated. The results of the investigation shall be recorded with the report and all relevant evidence retained in a confidential departmental file.

(B) Under certain circumstances, the supervisor or other investigator may request that the employee be placed on investigative leave. The department director may place the employee on investigative leave in accordance with §2.06.5 of these rules.

(C) Except as permitted for a pre-disciplinary hearing, the participants in a meeting to discuss discipline shall be limited to the employee and his or her immediate supervisor. There shall be no audio or video taping of the meeting, unless otherwise required in appropriate sections of this chapter. The supervisor and employee may write confirming memoranda to be placed in the employee's supervisory file.

§4.01.4 APPROPRIATE DISCIPLINE. The supervisor will determine the level of discipline to be contemplated based on the findings of the investigation, consideration of past relevant disciplinary actions, and the seriousness of the wrongdoing. The level of discipline should be determined according to the following standards:

(A) For minor matters, an employee may be advised of problems involving unacceptable conduct or job performance in a counseling session. Such sessions are also appropriate where clarification of departmental expectations may serve to resolve issues.

(B) In cases where an employee has committed a wrongdoing of only minor and temporary consequence, a supervisor may meet with and deliver a verbal warning to the employee.

(C) A written reprimand is the appropriate level of discipline for repeated minor infractions or for more substantial wrongdoing.

(D) Suspension without pay for fifteen (15) working days or less is the appropriate level of discipline for a major infraction of rules or continued failure to respond appropriately to prior disciplinary action.

(E) A suspension without pay for more than fifteen (15) working days is the appropriate level of discipline to be imposed by the department director as a final effort to correct an employee's conduct before demotion or discharge is necessary.

(F) A demotion to a lower job classification is an appropriate level of discipline to be imposed at the discretion of the department director for major infractions or continued failure to respond to previous disciplinary actions.

(G) Discharge from Borough employment is the appropriate level of discipline to be imposed by the department director for the following reasons, in accordance with NSBMC §2.20.100(C):

(1) serious infractions of the Borough municipal code or rules governing conduct and job performance;

(2) continued unwillingness or inability on the part of the employee to correct unacceptable actions or job performance; or

(3) arrest and conviction of a crime if, in the opinion of the administration, such conviction would impinge upon, or affect the performance of, the employee's job-related functions.

§4.01.5 PROCEDURE: COUNSELING SESSION. If it is determined that a counseling session is appropriate, the supervisor shall meet with the employee. The purpose of the counseling session is to advise the employee of action(s) or performance that is unacceptable and to ensure that the employee understands what is expected. Such a session is not disciplinary in nature, but the employee may be advised that continued problems could result in disciplinary action. There is no formal notice required for such a session and no right of appeal attaches to counseling sessions.

§4.01.6 PROCEDURE: VERBAL WARNING. If a verbal warning is appropriate, the supervisor shall meet with the employee to deliver a verbal warning. The warning shall advise the employee of the nature of the wrongdoing, what the proper action should have been and shall indicate that failure to correct the wrongdoing will result in further disciplinary action. Notation of the warning and the report of the investigation shall be retained in the supervisor's file, but it shall not be included in the employee's permanent personnel file. A verbal warning may, in the supervisor's discretion, be addressed in the employee's performance appraisal. No formal notice of this disciplinary measure is required and no right of appeal exists for employees receiving a verbal warning.

§4.01.7 PROCEDURE: WRITTEN REPRIMAND. (A) Written Notice Required. If a written reprimand appears warranted, the supervisor shall issue a written notice of contemplated discipline to the employee, entitled "Notice of Contemplated Discipline." Prior to issuance, the supervisor shall obtain the Human Resources Department's review and approval of the written notice of contemplated discipline. The notice shall include the following:

(1) details of the alleged wrongdoing together with the evidence and document(s) supporting the allegation(s);

(2) relevant history of discipline if past disciplinary actions were considered. When determining relevance, the supervisor shall also consider recency of past discipline;

(3) that a written reprimand is the level of discipline contemplated; and

(4) a time and date for the supervisor to meet with the employee or a deadline for the employee to request a meeting with the supervisor. This meeting is to provide the employee an opportunity to respond to the allegation(s). It should be scheduled within five (5) working days of issuance of the notice of contemplated discipline.

(B) Opportunity to Respond. At the time specified in the notice of contemplated discipline, the supervisor shall meet with the employee and give the employee an opportunity to present evidence or otherwise respond to the allegation(s). If the employee fails to attend the meeting, the supervisor may assume the employee has no response and may impose discipline.

(C) Supervisor Decision to Impose Discipline. After considering the employee's response, if any, past disciplinary action(s), and the seriousness of the wrongdoing, the supervisor should determine the appropriate level of discipline within ten (10) working days of the meeting.

(1) If the supervisor determines that a written reprimand is warranted, a written notice denominated as "Notice of Written Reprimand" should be issued to the employee within ten (10) working days of the meeting. Prior to issuance, the supervisor shall obtain the Human Resources Department's review and approval of the notice of written reprimand.

(2) If the supervisor determines that a different level of discipline is appropriate, he or she shall proceed to follow the notice of discipline requirements in the appropriate sections in these rules: §4.01.5 for counseling session; §4.01.6 for verbal warning; §4.01.8 for suspension of fifteen (15) working days or less; §4.01.9 for suspension of more than fifteen (15) working days, demotion or discharge.

(D) Issuance of Written Reprimand and Notice of Right of Appeal. The supervisor shall issue a written notice, denominated as "Notice of Written Reprimand," to the employee under confidential cover. Prior to issuing this notice the supervisor shall provide it to the Human Resources Department for review and approval. At a minimum, the notice of written reprimand shall include:

- (1) a statement describing the wrongdoing;
- (2) a summary of facts supporting the finding(s);
- (3) past relevant disciplinary action(s);
- (4) a copy of the notice of contemplated discipline;
- (5) the date the supervisor met with the employee or an explanation of why the meeting did not occur;
- (6) notice that "failure to correct actions will result in further disciplinary action, up to and including discharge;" and
- (7) notice of appeal rights outlined in Chapter 4.02 of the Borough Rules

and Regulations.

(E) Imposition of Discipline. If an appeal is not received within five (5) working days of the notice of written reprimand, a copy of the notice of written reprimand shall be placed in the employee's personnel file at the Human Resources Department.

(F) Appeal. If the employee appeals the disciplinary action, Chapter 4.02 of these rules shall be followed.

§4.01.8 PROCEDURE: SUSPENSION FOR FIFTEEN (15) WORKING DAYS OR LESS.

(A) Written Notice Required. If a suspension without pay for fifteen (15) working days or less appears warranted, the supervisor shall issue a written notice of contemplated discipline to the employee, entitled "Notice of Contemplated Discipline." Prior to issuance, the supervisor shall obtain the Human Resources Department's review and approval of the written notice of contemplated discipline. The notice shall include the following:

(1) details of the alleged wrongdoing together with the evidence and document(s) supporting the allegation(s);

(2) relevant history of discipline if past disciplinary actions were considered. When determining relevance, the supervisor shall also consider recency of past discipline;

(3) that a suspension of (specify number of days) is the level of discipline contemplated; and

(4) a time and date for the supervisor to meet with the employee or a deadline for the employee to request a meeting with the supervisor. This meeting is to provide the employee an opportunity to respond to the allegation(s). It should be scheduled within five (5) working days of issuance of the notice of contemplated discipline.

(B) Opportunity to Respond. At the time specified in the notice of contemplated discipline, the supervisor shall meet with the employee and give the employee an opportunity to present evidence or otherwise respond to the allegation(s). If the employee fails to attend the meeting, the supervisor may assume the employee has no response and may impose discipline.

(C) Supervisor Decision to Impose Discipline. After considering the employee's response, if any, past disciplinary action(s), and the seriousness of the wrongdoing, the supervisor should determine the appropriate level of discipline within ten (10) working days of the meeting.

(1) If the supervisor determines that a suspension of less than fifteen (15) working days is warranted, a written notice denominated as "Notice of Suspension" should be issued to the employee within ten (10) working days of the meeting. Prior to issuance, the supervisor shall obtain the Human Resources Department's review and approval.

(2) If the supervisor determines that a different level of discipline is appropriate, he or she shall proceed to follow the notice of discipline requirements in these rules:

§4.01.5 for counseling session; §4.01.6 for verbal warning; §4.01.7 for written reprimand; §4.01.9 for suspension of more than fifteen (15) working days.

(D) Issuance of Notice of Suspension and Notice of Right of Appeal. The supervisor shall issue a written notice, denominated as “Notice of Suspension,” to the employee under confidential cover. Prior to issuing this notice the supervisor shall provide it to the Human Resources Department for review and approval. At a minimum, the notice of suspension shall include:

- (1) a statement describing the wrongdoing;
- (2) a summary of facts supporting the finding(s);
- (3) past relevant disciplinary action(s);
- (4) a copy of the notice of the contemplated discipline;
- (5) the date the supervisor met with the employee or an explanation of why the meeting did not occur;
- (6) the number of days of suspension, including the starting and ending dates and the date the employee is expected to return to work;
- (7) notice that during the suspension, the employee may not use annual leave or other benefits, except that medical benefits will continue;
- (8) notice that “failure to correct actions will result in further disciplinary action, up to and including discharge;” and
- (9) notice of appeal rights outlined in chapter 4.02 of the Borough Rules and Regulations.

(E) Imposition of Discipline. If an appeal is not received within (5) five working days, the suspension shall be effective on the specified dates. A copy of the notice of suspension shall be forwarded to the Human Resources Department where it will be placed in the employee's personnel file.

(F) The duration of a suspension imposed upon an employee who has exempt status under the Fair Labor Standards Act shall be in increments of the employee's regular work week and shall start on the first day of the employee's scheduled work week, unless the suspension is imposed in good faith for an infraction of a safety rule of major significance.

(G) Appeal. If the employee appeals the discipline, Chapter 4.02 of these rules shall be followed.

§4.01.9 PROCEDURE: SUSPENSION OF MORE THAN FIFTEEN (15) WORKING

DAYS, DEMOTION, OR DISCHARGE. (A) Written Notice Required. If a suspension for more than fifteen working days, demotion, or discharge appears warranted, the supervisor shall issue a written notice of contemplated discipline to the employee entitled “Notice of Contemplated Discipline.” Prior to issuance, the supervisor shall obtain the Human Resources Department’s review and approval of the written notice of contemplated discipline. The notice shall include the following:

(1) details of the alleged wrongdoing together with the evidence and document(s) supporting the allegation;

(2) relevant history of discipline if past disciplinary actions were considered. When determining relevance, the supervisor shall also consider recency of past discipline;

(3) that a suspension of (specify number of days), demotion, or discharge is the level of discipline contemplated; and

(4) a time and date for the supervisor to meet with the employee or a deadline for the employee to request a meeting with the supervisor. This meeting is to provide the employee an opportunity to respond to the allegation(s). It should be scheduled within five (5) working days of issuance of the notice of contemplated discipline.

(B) Opportunity to Respond. At the time specified in the notice of contemplated discipline, the supervisor shall meet with the employee and give the employee an opportunity to present evidence or otherwise respond to the allegation(s). If the employee fails to attend the meeting, the supervisor may assume the employee has no response and may defer the matter to the deputy director, or another manager delegated to act for the deputy director.

(C) Supervisor Decision to Impose Discipline. After considering the employee's response, if any, past disciplinary action(s), and the seriousness of the wrongdoing, the supervisor should determine the appropriate level of discipline within ten (10) working days of the meeting.

(1) If the supervisor determines that a suspension for more than fifteen (15) working days, demotion, or discharge is warranted, the supervisor will defer the issue to the deputy director, or other manager if otherwise delegated.

(2) If the supervisor determines that a different level of discipline is appropriate, he or she shall proceed to follow the notice of discipline requirements in the appropriate sections in these rules: §4.01.5 for counseling session; §4.01.6 for verbal warning; §4.01.7 for written reprimand; §4.01.8 for suspension of fifteen (15) working days or less.

(D) Deputy Director or Other Delegated Manager Decision to Impose Discipline. The deputy director or other manager should determine the appropriate level of discipline and issue a written decision within three (3) working days of receiving the issue for review.

(1) If the deputy director or other manager determines that a suspension for

more than fifteen (15) working days, demotion, or discharge is not warranted, he or she shall defer the issue back to the supervisor. The supervisor will then determine what action is appropriate. If the supervisor determines that a counseling session, verbal warning, written reprimand, or suspension of less than fifteen (15) working days is appropriate, he or she will issue the written notice of discipline following appropriate procedures for selected discipline as outlined in sections 4.01.5 through 4.01.8 of these rules.

(2) If the deputy director or other manager determines that a suspension for more than fifteen (15) working days, demotion, or discharge may be warranted, he or she shall issue a written notice of contemplated discipline to the employee. Prior to issuance, the deputy director or other manager shall obtain the Human Resources Department's review and approval of the written notice of contemplated discipline.

(E) Written Notice Required. If a suspension for more than fifteen (15) working days, demotion, or discharge appears warranted, the deputy director or other manager shall issue the written notice of contemplated discipline to the employee, entitled "Notice of Contemplated Discipline." Prior to issuance, the deputy director or other manager shall obtain the Human Resources Department's review and approval of the written notice of contemplated discipline. The notice shall include the following:

(1) reason(s) for the proposed action and the facts and evidence supporting the deputy director or other manager's decision;

(2) past relevant disciplinary action(s);

(3) the date the supervisor issued the notice of contemplated discipline;

(4) the date the supervisor met with the employee or a reason that the meeting did not occur;

(5) notice of setting a pre-disciplinary hearing that the department director will preside over as hearing officer;

(a) the hearing officer shall have had no previous material involvement in the specific situation that may warrant discipline. If necessary, to insure an impartial hearing officer, a deputy director or other manager shall be assigned as the hearing officer;

(6) a time and date, within five (5) working days from issuance of the notice of contemplated discipline, when the hearing officer will convene a pre-disciplinary hearing, and the location of the hearing;

(7) notice that the employee may be represented by counsel at his or her own expense;

(8) notice that the pre-disciplinary hearing will be under oath or affirmation and tape recorded;

(9) notice that the employee will have an opportunity to confront and cross-examine all witnesses relied upon by the director or designated deputy director or subordinate manager in determining proposed disciplinary action and to present any other relevant evidence and witnesses; and

(10) notice that if the employee elects not or fails to appear at the pre-disciplinary hearing, the discipline shall be effective on the prescribed date noted in the written notice of contemplated discipline and further rights of appeal shall be deemed waived.

(F) The effective date of discipline shall be five (5) working days after the notice of contemplated discipline is issued.

(G) The duration of a suspension imposed upon an employee who has exempt status under the Fair Labor Standards Act shall be in increments of the employee's regular work week and shall start on the first day of the employee's scheduled work week, unless the suspension is imposed in good faith for an infraction of a safety rule of major significance.

(H) Opportunity to be Heard: Pre-disciplinary Hearing. The department director conducts the pre-disciplinary hearing. If the department director has had previous material involvement with the specific situation that may warrant discipline, a deputy director or other subordinate manager shall be delegated and preside as hearing officer. The hearing officer has full authority to issue a final decision.

(1) The hearing officer shall afford the employee an opportunity to confront and cross-examine all witnesses relied upon by the director or designated deputy director or subordinate manager in determining the proposed disciplinary action and to present other relevant evidence and witnesses.

(2) The employee and any witnesses shall be placed under oath or affirmation prior to the testimony of any witness.

(3) The proceedings shall be recorded.

(4) An employee may be represented by counsel at his or her own expense.

(5) If the employee elects not or fails to appear at the hearing, the discipline shall be effective on the prescribed date noted in the written notice of contemplated discipline and further rights of appeal shall be deemed waived.

(6) If the hearing officer determines that discharge is appropriate, the employee may be afforded an opportunity to resign in lieu of discharge prior to the time the discharge has become effective. The department director shall immediately notify the Human Resources Director in writing of the resignation and set forth the reasons why the employee would have been discharged.

(l) Written Decision and Notice of Right of Appeal. Within two (2) working days after the hearing, the hearing officer shall issue a written decision which shall affirm, modify or set aside the contemplated discipline. This decision shall be effective immediately, but imposed at least five (5) days after the notice of contemplated discipline is issued. A copy of the decision shall be forwarded to the Human Resources Department where it will be placed in the employee's personnel file.

(1) If the hearing officer affirms the decision that a suspension in excess of fifteen (15) working days, demotion, or discharge is warranted, a written notice denominated as "Notice of Suspension," "Notice of Demotion," or "Notice of Discharge," shall be issued to the employee. Prior to issuance, the hearing officer should obtain the Human Resources Department's review and approval of the written notice of suspension, demotion, or discharge. The notice shall include:

- (a) a statement describing the wrongdoing;
- (b) a summary of the facts supporting the finding(s);
- (c) past related disciplinary action(s);
- (d) the date the supervisor issued the contemplated discipline memorandum and the level of discipline originally contemplated;
- (e) the date the supervisor met with the employee or an explanation of why the meeting did not occur;
- (f) the date the deputy director or other subordinate manager issued the notice of contemplated discipline;
- (g) the date the hearing officer met with the employee or an explanation of why the meeting did not occur;
- (h) notice that "failure to correct actions will result in further disciplinary action, up to and including discharge," (for suspension only);
- (i) the number of days of suspension, including the starting and ending dates and the date the employee is expected to return to work, (for suspension only);
- (j) notice that during a suspension the employee may not use annual leave or other benefits, except that medical benefits will continue;
- (k) the position that the employee will demote to if a notice of demotion; and
- (l) notice of appeal rights outlined in chapter 4.02 of the Borough Rules and Regulations.

(2) If the discipline is to be set aside, the hearing officer shall also state the findings on which this decision is based. Prior to issuing this notice, the hearing officer should obtain the Human Resources Department's review and approval.

(3) If the discipline is to be modified, the decision shall set forth the reasons for the modification(s) and state what disciplinary action will be imposed. The written decision shall notice the employee of appeal rights outlined in chapter 4.02 of these rules.

§4.01.10 ALTERNATIVE DISCIPLINARY PROCESS. (A) At the discretion of the hearing officer, an employee against whom suspension for more than fifteen (15) working days, demotion, or discharge is proposed may be offered the alternative discipline process.

(B) The alternative discipline process shall consist of a plan which may include counseling, remedial training, retraining, transfers, demotions, modified disciplinary actions, improvement plans, probationary or "last chance" agreements, any combination of the above or any other procedure that might enable the employee to succeed. The plan shall clearly state measurable objectives for the employee.

(C) The alternative discipline plan shall be in writing and signed as accepted by the Director of Human Resources, the hearing officer, and the employee, in that order. The plan shall indicate a completion date and provide for periodic progress reviews by the department director. The plan shall also provide that in the event the employee fails to abide by its terms, the plan may be canceled immediately by the hearing officer with the concurrence of the Director of Human Resources. The plan shall contain the language found in §4.01.10(D).

(D) If the employee fails to abide by the terms and conditions of the alternative discipline plan, it will result in the immediate imposition of the original disciplinary action. The acceptance of the alternative discipline plan shall constitute a waiver of all rights of appeal of the original disciplinary action as well as any hearing or review process related to the employee's conduct under the plan.

CHAPTER 4.02 - APPEALS

§4.02.1 WAIVER. It is the responsibility of the employee against whom disciplinary action is to be imposed to follow the procedures for appeals set forth in this chapter. Failure to follow the procedures shall be deemed a waiver of subsequent appeal rights.

§4.02.2 TIME LIMITS AND EXTENSIONS. (A) The deadlines imposed for the exercise of appeal rights ensure timely resolution of contested disciplinary actions. Absent an approved extension of time, failure by an employee to meet prescribed deadlines will end the appeal process and no subsequent appeal will be considered.

(B) Time limits in the appeal procedure may be extended upon the written consent of both parties.

§4.02.3 PROCEDURE: APPEAL OF WRITTEN REPRIMAND. (A) Within five (5) working days after receipt of a notice of written reprimand, an employee may submit a response

in writing. The employee's response shall be attached to the notice of written reprimand. The notice of written reprimand and the employee's response shall be forwarded to the Human Resources Department for placement in the employee's personnel file.

(B) Alternatively and within five (5) working days after receipt of a notice of written reprimand, an employee may request a meeting with the department director to discuss the discipline. If the department director determines that there has been an error in fact, the written reprimand may be removed or modified. The department director's decision shall be in writing and issued within five (5) working days of the meeting. A copy of the department director's decision shall be given to the employee and to the employee's supervisor. Prior to issuance, the department director should obtain the Human Resources Department's review and approval of the written notice.

(1) If the written reprimand is affirmed, the supervisor shall forward a copy of the director's decision together with the notice of written reprimand to the Human Resources Department for placement in the employee's personnel file.

(2) If the written reprimand is to be removed, the supervisor shall purge all documents relevant to the disciplinary action from department files.

(3) If the discipline is to be modified, the modified action shall be carried out immediately.

(C) The determination of the department director shall be final as to the issuance of a written reprimand.

§4.02.4 PROCEDURE: APPEAL OF SUSPENSION OF FIFTEEN (15) WORKING DAYS OR LESS. (A) Within five (5) working days of receipt of the notice of suspension, an employee may appeal the suspension by requesting a meeting with the department director. The meeting shall take place as soon as possible after the request is received. The employee shall be given an opportunity to present evidence or argument against the discipline. If the department director determines that there has been an error in fact, the suspension may be modified or removed as appropriate. Otherwise, the suspension shall be affirmed. The department director's response shall be in writing and shall be issued within five (5) working days of the meeting. Prior to issuance, the department director should obtain the Human Resources Department's review and approval of the written notice.

(B) If the employee disagrees with the department director's response or if the department director fails to respond, an employee may appeal the suspension to the Director of Human Resources within five (5) working days of receipt of the department director's response or within five (5) working days from the date it was due. The appeal shall be in writing and shall set forth the specific reasons for the request for review and may contain a statement of the relief sought and a request to meet with the Director of Human Resources.

(C) If the employee requests a meeting with the Director of Human Resources, the Director of Human Resources shall meet with the employee within five (5) working days of receipt

of the employee's appeal to hear his or her response.

(D) The Director of Human Resources shall review the record of the disciplinary action, shall consider the employee's response, if any, and make a determination as to whether there has been an error in fact. If an error in fact has been made, the Director of Human Resources may modify or remove the suspension. The Human Resources Director's determination shall be in writing and issued within five (5) working days of receipt of the appeal when no meeting has been requested.

(1) If the suspension is affirmed, the suspension shall be effective immediately. If the employee is exempt under the Fair Labor Standards Act, the suspension shall start on the first day of the employee's scheduled work week or immediately if the suspension is imposed in good faith for an infraction of a safety rule of major significance. The written decision together with the notice of suspension will be placed in the employee's personnel file.

(2) If the suspension is to be removed, the supervisor shall purge all documents relevant to the action from department files.

(3) If the discipline is to be modified, the modified action shall be carried out immediately. If the decision includes a suspension and the employee is exempt under the Fair Labor Standards Act, the suspension shall become effective at the beginning of the employee's next work week or immediately if the suspension is imposed in good faith for an infraction of a safety rule of major significance. A suspension of an exempt employee imposed for reasons other than an infraction of a safety rule of major significance must be imposed in increments of whole work weeks.

(E) The Human Resources Director's determination is final with regard to the imposition of suspension without pay for fifteen (15) working days or less.

§4.02.5 PROCEDURE: APPEAL OF SUSPENSION OF MORE THAN FIFTEEN (15) WORKING DAYS, DEMOTION, OR DISCHARGE.

(A) If the hearing officer affirms the suspension without pay for more than fifteen (15) working days, demotion or discharge, or does not issue a decision within two (2) working days of the pre-disciplinary hearing, a written appeal to the North Slope Borough Personnel Board may be filed with the Director of Human Resources within five (5) working days of receipt of the decision or the date it was due, whichever is later.

(B) Upon receipt of the appeal, the Director of Human Resources shall notify the involved department and the North Slope Borough Personnel Board. The board will set a date for a hearing and the board secretary shall provide the employee with a copy of the board's procedural rules or notice as to how the appeal will proceed.

§4.02.6 PERSONNEL BOARD HEARING UPON APPEAL OF SUSPENSION OF MORE THAN FIFTEEN (15) WORKING DAYS, DEMOTION, OR DISCHARGE.

(A) The Personnel Board shall hear only the appeals of employees who hold permanent status in the classified service and who have been suspended without pay for more than fifteen (15) working days, demoted, or discharged.

(B) In an appeal heard by the Personnel Board, the Borough must prove by a preponderance of the evidence that just cause exists to support the discipline imposed on the employee. The Borough and the employee may present relevant testimonial and documentary evidence. The employee and the Borough may confront and cross-examine all adverse witnesses. The employee may be represented by counsel at his or her own expense. All testimony shall be upon oath or affirmation and the entire proceeding recorded.

(C) If the board or hearing officer finds that just cause does not exist to discipline the employee, the board or hearing officer may award reinstatement, with or without loss of pay or leave benefit, for the period of the suspension, demotion, or discharge or may modify discipline, as deemed appropriate.

(D) The Mayor may appoint a hearing officer to hear and determine appeals if the board cannot render a decision or if the board requests that a hearing officer be appointed. The hearing officer shall be qualified, unbiased and impartial with experience in law and the holding of hearings. A hearing officer so appointed shall have all the powers of the board.

(E) Proceedings before the board or an appointed hearing officer are not governed by Chapter 2.28 of the Borough Code. The formal rules of evidence are not applicable.

(F) In all cases, the board or hearing officer shall report the findings, conclusions, and decision to all parties in writing within ten (10) calendar days following the close of the hearing. The board or hearing officer may require the prevailing party to draft proposed findings, conclusions, and decision for their consideration, modification, or adoption.

(G) The Borough Attorney or his or her designee may advise the board or a hearing officer appointed under §4.02.6(D) on procedural issues and matters of law as required in the discharge of the board's duties. During the pendency of any appeal, the attorney designated to advise the board shall have had no material involvement in the disciplinary action appealed from and shall not participate, in any manner, in the board's deliberations. Nothing shall prevent another member of the Borough Attorney's staff from appearing before the board and representing a Borough department in an appeal proceeding before the board.

(H) The board may, in its discretion, employ temporary outside legal counsel for proceedings before the board and court actions involving the board when it is deemed necessary or appropriate.

§4.02.7 APPEAL OF THE PERSONNEL BOARD OR HEARING OFFICER'S

DECISION. The Borough or the employee may appeal a decision of the Personnel Board or hearing officer to the Superior Court in and for the State of Alaska. An appeal to the Superior Court must be made within thirty (30) days of the date of distribution of the final decision of the Personnel Board or hearing officer and conform to the provisions of the Alaska Rules of Appellate Procedure, Part VI, Superior Court as an Appellate Court.

TITLE 5 - MISCELLANEOUS PROVISIONS RELATED TO EMPLOYEES

Chapter 5.01 - Personnel Records and Employee Information

- §5.01.1 Access to Personnel Files and Job Applications
- §5.01.2 Records of the Age, Sex and Race of Employees
- §5.01.3 Public Information
- §5.01.4 Good Faith Disclosure of Job Performance Information
- §5.01.5 Use of Borough Computers, the Internet, Electronic Mail, and Cell Phones
- §5.01.6 Personal Addresses

Chapter 5.02 - Deceased Employees

- §5.02.1 Compensation Due a Deceased Employee
- §5.02.2 Beneficiaries of Borough Benefit Plans

Chapter 5.03 - Protections, Prohibitions and Penalties: The Borough's Whistleblowers Act

- §5.03.1 Applicability
- §5.03.2 Covered Activity
- §5.03.3 Definitions
- §5.03.4 Prerequisites for Borough Employee Initiating Report on a Matter of Public Concern
- §5.03.5 Protections and Prohibitions
- §5.03.6 Limitations on Protection of Borough Employees
- §5.03.7 Disclosure of Confidential Information Prohibited
- §5.03.8 Disciplinary Action for Violations; False Reports

CHAPTER 5.01 - PERSONNEL RECORDS AND EMPLOYEE INFORMATION

§5.01.1 ACCESS TO PERSONNEL FILES AND JOB APPLICATIONS. Access to the individual personnel file of a Borough employee or applications for employment with the Borough is limited to the following:

(A) A present or former employee may examine his or her own personnel file during regular business hours at the Human Resources Department and may authorize others to examine it provided the authorization is in writing and signed by the employee.

(B) A present or former Borough employee who applies for another position with the Borough is deemed to have authorized the director or designee of the hiring department to examine his or her personnel file.

(C) The director of the hiring department and all persons involved in the interviewing and selection process shall have access to all applications for a position to be filled.

(D) The Law Department and the Human Resources Department shall have access to all matters contained in personnel files and all employment applications as the business of the Borough requires.

(E) No employee involved in the selection process for a position shall discuss any aspect of the process with any applicant or any other person not involved in the process at any time before or after the process has been completed, except where disclosure is required for compliance with procedures authorized by law to investigate a claim by an applicant that the process resulted in an illegal selection.

§5.01.2 RECORDS OF THE AGE, SEX, AND RACE OF EMPLOYEES. State and federal law require the Borough to maintain records of the age, sex, and race of its employees to comply with civil rights laws and regulations. These records are confidential and available only to state and federal personnel legally charged with the responsibility for administering such laws and regulations. Data compiled from these records which is strictly statistical in nature is public information.

§5.01.3 PUBLIC INFORMATION. (A) The following information is considered public information and is available to the general public subject to the reasonable regulations of the Human Resources Department on the time and manner of disclosure:

- (1) the gross pay of Borough employees; and
- (2) the average cost of benefits allocated in the budget; and
- (3) the current job title and department location of Borough employees; and
- (4) timesheets of Borough employees; and

(5) to an unsuccessful applicant for the position of chief administrative officer, department director, department deputy director, police chief, or Borough Attorney, the applications of all applicants who have not withdrawn their applications at the time of selection.

(B) Except as required by state and federal law, private facts concerning an employee or former employee are not considered public information and may not be disclosed absent a release signed by the employee. As used in this provision, "private facts" include, but are not limited to, the person's home address, home phone number, race, age, physical or mental condition, marital status, family background, religious beliefs, political affiliations, national origin, financial status, wage garnishments, tax liens, or medical history.

(C) Upon specific written, signed, and notarized authorization from the employee concerned, the Borough may release information otherwise deemed to be confidential.

§5.01.4 GOOD FAITH DISCLOSURE OF JOB PERFORMANCE INFORMATION. (A)

As provided in AS 09.65.160, the disclosure by the Borough of information concerning the job performance of a present or former employee to a prospective employer is presumed to be an action taken in good faith and the Borough may not be held liable for such a disclosure or its consequences. This immunity, however, is not available if the Borough, through its agents, is shown by a preponderance of the evidence to have:

(1) recklessly, knowingly, or with a malicious purpose disclosed false or deliberately misleading information, or

(2) disclosed information in violation of a civil right of the employee or the former employee which is protected by Chapter 18.80 of the Alaska Statutes, or under a comparable federal law.

(B) The disclosure of information concerning job performance may be made upon the request of the prospective employer, the employee, or the former employee. A Borough employee receiving a request for information shall immediately notify the Human Resources Department of the request and provide the Human Resources Department with a summary of the information he or she would provide and the factual basis for the information. The Human Resources Department shall then approve or disapprove the release of the information.

(C) The information that may be disclosed is strictly limited to matters related to job performance. The information contained on employee performance appraisals may serve as a reference.

(D) The disclosure of any private facts, as defined in §5.01.3(B), concerning the individual to a prospective employer is prohibited.

(E) A Borough employee who recklessly, knowingly, or with a malicious purpose discloses false or deliberately misleading information under this section or discloses information in violation of a civil right of the employee or former employee that is protected by AS 18.80, or under a comparable federal law, is deemed to have committed a serious infraction of these rules

and is subject to discipline, up to and including discharge.

§5.01.5 USE OF BOROUGH COMPUTERS, INTERNET, ELECTRONIC MAIL, AND CELL PHONES. (A) Borough employees are given access to computers, the Internet, electronic mail, and cell phones for conducting activities related to Borough business. They are not to be used by employees to conduct private commercial or fund-raising activities.

(B) Borough employees are expected to use discretion and good judgment in their use of Borough computers, the Internet, electronic mail, and cell phones. They are to avoid usage that a reasonable person would find offensive because of inappropriate references to sex, gender or sexual orientation, race, national origin, religious beliefs, age, or physical or mental disabilities.

(C) Borough employees have no expectation of privacy with respect to their use of Borough computers, the Internet, electronic mail, or cell phones.

§5.01.6 PERSONAL ADDRESSES. All employees, including those on leave without pay status, are required to keep their mailing address and telephone contacts current with the Human Resources Department.

CHAPTER 5.02 DECEASED EMPLOYEES

§5.02.1 COMPENSATION DUE A DECEASED EMPLOYEE. As provided in NSBMC §2.20.400, all unpaid compensation due to a Borough employee at the time of his or her death shall be paid to the personal representative of the decedent's estate or otherwise in accordance with provisions of Title 13 of the Alaska Statutes. This provision does not apply to sums payable to named beneficiaries through the Borough's employment benefit plans.

§5.02.2 BENEFICIARIES OF BOROUGH BENEFIT PLANS. All Borough employees are responsible for keeping all documents naming beneficiaries of their employment benefit plans accurate and current. In cases where beneficiaries have not been named, the named beneficiary is or has become ineligible or any ambiguity exists, the proceeds must be paid in accordance with applicable law, regardless of any intent the decedent may have otherwise expressed.

CHAPTER 5.03 PROTECTIONS, PROHIBITIONS AND PENALTIES: THE BOROUGH'S WHISTLEBLOWERS ACT

§5.03.1 APPLICABILITY. The full text of the Borough's Whistleblowers Act is set forth in NSBMC §2.20.420 and it is expressly applicable to all members of the Borough service, regardless of status. The following provisions serve to reiterate the protections, prohibitions and penalties applicable to Borough employees.

§5.03.2 COVERED ACTIVITY. The act provides certain protections, prohibitions and penalties related to "whistleblowing" activity. Covered activity involves instances where a person reports or is about to report a matter of public concern to a public body or instances where a person participates in a court action, investigation, hearing or inquiry held by a public body on a matter

of public concern.

§5.03.3 DEFINITIONS. As used in this section: (A) a "matter of public concern" means a violation of a federal, state or local law, regulation, or ordinance by a Borough or other public official or employee; a danger to the public health or safety for which the Borough or other public entity is responsible; gross mismanagement, substantial waste of funds or abuses of authority by a Borough or other public official or employee; or a matter accepted for investigation by the state ombudsman under AS §24.55.100 or AS §24.55.320;

(B) a "public body" means an officer or agency of the federal government, the state, the North Slope Borough, or other political subdivision of the state. It also includes a school district, a public or quasi-public corporation established by state law including the Alaska Railroad and the University of Alaska.

§5.03.4 PREREQUISITES FOR BOROUGH EMPLOYEE INITIATING A REPORT ON A MATTER OF PUBLIC CONCERN. Before a Borough employee initiates a report on a matter of public concern as provided in this chapter, the employee shall submit a written report concerning the matter to the Mayor or his or her designee. An employee is exempted from this requirement only if the employee:

(A) reasonably believes that such a report to the Mayor will not result in action to remedy the matter;

(B) believes with reasonable certainty that the matter is already known to the Mayor or his or her chief administrative officer;

(C) reasonably believes that an emergency exists as that term is defined in Charter §16.140(b); or

(D) reasonably fears reprisal as a result of the report.

§5.03.5 PROTECTIONS AND PROHIBITIONS. No Borough official or employee may:

(A) discharge, threaten to discharge, or attempt to discharge a Borough employee for properly engaging in covered activity;

(B) discriminate, threaten to discriminate, or attempt to discriminate against a Borough employee regarding compensation, terms, conditions, location, or privileges of employment for properly engaging in covered activity; or

(C) disqualify or attempt to disqualify an employee or other person who properly engages in covered activity from eligibility to bid on contracts with the Borough, to receive land under state law or Borough ordinance, or to receive any other right, privilege, or benefit.

§5.03.6 LIMITATIONS ON PROTECTION OF BOROUGH EMPLOYEES. (A) A Borough employee or other person is not entitled to protection under this chapter unless he or she reasonably believes that the information reported is or is about to become a matter of public concern and makes the report in good faith.

(B) A Borough employee or other person is not entitled to protection under this chapter if the matter of public concern is a result of conduct by the person seeking protection. The employee or other person is protected, however, if the conduct resulting in the matter of public concern was required by a superior or employer.

§5.03.7 DISCLOSURE OF CONFIDENTIAL INFORMATION PROHIBITED. A Borough employee may not disclose information that is legally required to be kept confidential when reporting or participating in a proceeding regarding a matter of public concern. (Borough Rules and Regulations §5.01.1 and §5.01.2).

§5.03.8 DISCIPLINARY ACTION FOR VIOLATIONS; FALSE REPORTS. The Borough may take disciplinary action, up to and including discharge, against any employee who violates NSBMC §2.20.420 or who knowingly, maliciously, or recklessly makes a false report to a public body or who knowingly, maliciously, or recklessly gives false testimony in a proceeding connected with a matter of public concern.